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SERIES OF LETTERS,

ADDRESSED TO

*THOMAS JEFFERSON, Esq.*

PRESIDENT OF THE UNITED STATES,

CONCERNING

*HIS OFFICIAL CONDUCT AND PRINCIPLES:*

WITH

AN APPENDIX

OF

*IMPORTANT DOCUMENTS,*

AND

ILLUSTRATIONS.

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*BY TACITUS.*

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PHILADELPHIA :

FOR E. BRONSON, PRINTED BY THOS. SMITH.

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## SERIES OF LETTERS.

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### LETTER I.

*To* THOMAS JEFFERSON, *Esquire, President of the*  
*United States.*

SIR,

AFTER the soothing language uttered by you, in your inaugural address, on the 4th of March last ;—after your invitation to your fellow citizens to unite with you, with one heart and one mind, in restoring to social intercourse that harmony and affection, without which liberty, and even life itself, are but dreary things ;—after proposing to banish from our land political intolerance, which, if not discountenanced, might prove as despotic as wicked, and capable of as bitter and bloody persecutions as those heretofore inflicted on mankind by religious intolerance ;—after having assumed a portion of blame for having called by different names brethren of the same principles ;—after stating that we are all republicans, we are all federalists ;—and after acknowledging that our government had proceeded so far in the full tide of successful experiment, and had so far kept our country free and firm, had any individual ventured to predict, that you would shortly be seen acting in direct violation

of the principles and propolitions then brought forward by yourself; that even whilst those honied terms were flowing from your tongue, you were probably meditating the establishment of that political persecution and intolerance which you then disclaimed; that even in the high and honourable station to which you were called, you would be found capable of belittling yourself so far, as to attempt to stigmatize, by odious denominations, that respectable portion of your fellow-citizens usually designated as federalists, to the happy result of whose exertions you were then constrained, by the notoriety of circumstances, to bear the most public testimony, and under whose general designation you seemed anxious to withdraw from the public recollection the odium justly attached to the opposition which had been made to those exertions,—had, I say, any individual ventured to predict these things, he would, without question, have incurred the imputation of illiberality, nay, of malignity towards you. Yet, what has the course of a few revolving moons brought to view? Not only a practice upon the reverse of the principles then vainly and illusorily held up, but a public avowal of that reverse, and an open attempt to stigmatize, as a *political sect*, those whose counsels had prevailed in the administration of our government, previous to your present elevation, and to whom must consequently be attributed the important advantages, whatsoever they be, which, by your own acknowledgement, have been derived to our country and government. The frequent removals of men of the utmost respectability from official station,—of men whose services to their country, in times the most trying, your predecessors in office had thought worthy of remuneration, if in official station that remuneration could be found,—of men whose diligence, ability, and punctuality in the discharge of their official du-

ties had left you no assignable cause for their removal, save the exercise of that independence of sentiment which essentially distinguishes the citizens of a free government from the slaves of despotic power,—these occurrences, I say, sir, were sufficient, without other proof, to evince your practice upon the reverse of your principles of the 4th of March: your answer to the remonstrance of the merchants of New-Haven stands, and will forever stand, a monument of your public avowal of that reverse; of your political intolerance, and of your unaccountable inconsistency.

To stigmatize others as a *political sect*, and consequently as deviating from the principles essential to rational and free government, can belong only to those who are correct themselves. You, sir, in a public and honourable station, have assumed the authority of making that denunciation, and consequently have set yourself up to the examination of others. To those who best know the importance of the powers of government in the affairs of mankind, and how essential the appearance of public respect for those in authority “*is to the successful exercise of that authority*” nothing more unpleasant could have occurred. Of the disposition of the federalists to render that respect in decent degree, to whomsoever the voice of their country, or *the forms of the constitution might enounce* for the important station of chief magistrate of the union, you, sir, had the best grounds of assurance, from the uniform tenor of their conduct, and from their avowed principles, favourable to order and good government. In addition to these grounds, you had, sir, the formal assurance of that respectable body of men, the senate of the United States, consisting principally of well known federalists, in terms probably going beyond what strict propriety might have authorised, but which, in that very circumstance, evinced their laudable disposition to

bury in oblivion many things that had passed, and to promote conciliation and harmony for the future. This, sir, be assured, was also the disposition of those who composed what was called the federal part of the late house of representatives of the United States. Was then your denunciation of *political sectarism* intended as an experiment to try the extent of that disposition, and to provoke that examination which, if strictly made, you yourself, sir, are the best judge, whether it can conduce to your honour or respectability?

You well know the style, sir, of the ancient oath of allegiance used in the kingdom of Arragon,—“ We, who are as good as you, make you our king, on condition that you keep and observe our privileges and liberties ; and if not, not.”—You know that the senate of the United States annexed to their assurance of constitutional support, as an indispensable proviso, that your official conduct should be directed to the honour and interest of our country : and you know, whatever assurances may be given by others, that this is a condition annexed by natural justice, which, so long as your fellow citizens shall possess any sentiments of rational freedom, (as well those who, from honourable motives, favoured your elevation, as those whom you have denounced as a *political sect*,) they will expect to be fulfilled. Was then this political persecution of meritorious officers, for the exercise of that independency of sentiment which characterizes freemen? Was this political intolerance which has denounced, as a *political sect*, those by whose councils, labours, and support our government has thus far proceeded in the full tide of successful experiment, and our country has been so far kept free and firm, directed either to the honour or the interest of our country? Is your conduct justified in these respects by the examples of your predecessors?



In every act of the administration of General WASHINGTON, he sought the happiness of his fellow-citizens. His uniform system for the attainment of that object was to overlook all personal, local, and partial considerations; to contemplate the United States as one great whole; and to consult only the substantial and permanent interests of our country. In all his appointments to office, he sought for those whom he hoped most likely to promote those interests: he disdained the idea of making that portion of his official authority subservient to personal views, to the provision of props for the continuance and support of his individual power, or for the promotion of the confined views of party. He was, indeed, sometimes disappointed in his expectations on behalf of the public; and, unworthily treated as the federalists have been, can it be any harm to ask, of what political sect were those generally who contributed to that disappointment?

Mr. ADAMS, previous to the late presidential election, and whilst he was marked by your adherents as the object of calumny upon this very subject, has been heard to recount the various instances of dismissal which had at that time taken place during his administration, and you, sir, by whom his talents and integrity have been so long known and revered, by whom a cordial friendship has been so long entertained for him, will not surely venture to charge him with wilful falsehood, when he declared, that none of those dismissals had been made upon party considerations:—You will not, surely, charge him with insincerity, when he disclaimed and reprobated every use of the presidential power, in relation to dismissal from office, for party purposes. In his selection of those who were to supply the vacancies that occurred, it is probably true, that he generally, though not universally, preferred men of political sentiments

different from those whom he had most frequently seen to disappoint the expectations of his predecessor, and whom he had found most frequently to deceive himself. Had you, sir, in these respects, without aiming at the sublime model of WASHINGTON, even taken the example of your immediate predecessor for your guidance, we should never have heard complaints that officers of federal principles would *neither die nor resign* : we should not have seen officers who had honourably and bravely served their country in the field, and who, in remembrance of that service, had been advanced to stations in the civil line, where an equally honourable fidelity and punctuality had marked their conduct, dismissed from those stations, to the infinite distress of themselves and families, upon *avowed party considerations*. In relation to the heads of departments, who are considered as the immediate council and assistants of the president, whilst he himself remains responsible for the result of the measures of his administration, there can be no doubt but the president is and ought to be authorized, under his general constitutional restriction, to seek the aid of those in whom he has the greatest confidence, and consequently to make dismissals from those stations, whenever he conceives he may derive more important aid by the substitution of others. Such dismissals, therefore, simply of themselves, and independent of other circumstances, ought not to cast a dishonourable imputation upon the dismissed, or to subject the president to complaint or censure. Consistently with the example of Mr. ADAMS, you might have supplied these stations with those whom you thought most capable of giving you aid in the pursuit of the honour and interest of our country. In doing this, you would not have been blamed for dismissals, nor have incurred the dissatisfaction of any part of your countrymen, in supplying vacancies, had you

confined your selection to *native and original citizens*, those who shared in the establishment of *the original independence* of our country. But can it be for the honour or interest of our country on such an occasion to have selected as one of your chief counsellors a foreign adventurer, whose restless disposition, during his limited residence in our country, had already compelled him to have recourse to presidential amnesty, after having been engaged in fomenting an insurrection against the government, which cost our country, in treasure alone, upwards of twelve hundred thousand dollars? The rigid patriotism of Mr. ADAMS was an effectual security against a degrading error of that sort.

In your diplomatic appointments you might, without objection, have sought for those whom you considered as concurring with you in your ideas of our foreign relations; but in doing this, it would have been well to have selected men, whose moral characters would have done no discredit to their official stations. Charity leads to hope there would have been no difficulty in finding such.

In the inferior stations of office, a strict scrutiny might have been instituted, and wherever delinquency, incapacity, or moral depravity should be found, you would have incurred the dissatisfaction of no federalist by exercising your power of dismissal and supplying the vacancies occasioned thereby, with whomsoever you pleased of *native or original* citizens of decent and respectable characters. But where neither delinquency, nor incapacity, nor moral depravity could be found, you ought surely to have waited with patience yourself, and to have endeavoured to inculcate into your greedy expectants the necessity of that patience, for *the death or resignation* of those who blamelessly performed their duties. Adopting

the sentiments of Governor CLINTON, in his better days, you might have said to them,

“The constitution implies that all offices, the duration of which is not particularly ascertained, shall be held during the pleasure of the president. By the pleasure of the president is intended, in my opinion, *not a capricious arbitrary pleasure, but sound, rational discretion, to be exercised for the public good* : a contrary doctrine renders the *constitution unsafe, and its administration unstable*, and whenever parties exist, may tend to deprive men of their offices, because they have *too much independence of spirit to support measures* which they suppose *injurious to the union*, and may induce others, from an undue attachment to office, *to sacrifice their integrity to improper considerations.*” And, sir, you might have added in the same spirit, that such would be the highest abuse of power, not only in relation to the justice due to individuals, but in relation to the purity and freedom of suffrage, the fundamental principle of republican government : that such abuse would be not only worthy of the general execration of your countrymen, but ought to incapacitate whoever should be guilty of that abuse, for ever after to hold and enjoy any office of honour, trust, or profit under a government deserving the name of free or republican.

By adopting a course of this sort, you would have conciliated the affections of the respectable of every denomination, and saved our country from the mischiefs that must flow from the course now pursued, as well as from the humiliating circumstance of beholding the government of New York abandoning its former honourable principles, and justifying itself in that abandonment by your arguments and example.

Are you justified in this course, by the declaration of your friends? Whilst your enunciation, sir, was yet in fieri, and the contest between you and Colonel

BURR was undecided, there is good authority for asserting, that it was not unfrequently urged, by some of those who stood forth the advocates of your elevation, to those who thought Colonel BURR more worthy of the first station, that if the latter wished to see the government of the United States administered upon principles such as those of which a specimen had been given in the state of Pennsylvania by Governor M'KEAN, they ought to persist in the preference of Colonel BURR, whose violence of character was represented as bearing a strong resemblance to that of Governor M'KEAN. But if they wished to see the government of the United States administered upon mild and conciliatory principles, free from every thing like a proscription of officers upon party considerations, they ought to desist from the support of Colonel BURR, and accede to the preference of Mr. JEFFERSON, whose character was represented to be made up of moderation and kindness, precluding every idea of such proscription. These declarations are believed to have been sincerely made, under an impression of their truth, by those who loved their country, who wished to cherish its peace and harmony, and who had no idea of giving countenance to such a course of proscription. Many such there are without question, sir, amongst those who were your friends and adherents; but what must be their disappointment and chagrin on witnessing the course which you have taken, and deliberately avowed your determination to persist in? Is it in the nature of the old foldier (for some of these you had among your friends,) whatever may be his political sentiments in the mottled confusion of our politics, produced by calumny and misrepresentation, to wish his fellow-foldier, who asserted with him in the field, the independence of his country, and whom he saw placed in a situation to exempt him from penury, whilst he

still rendered valuable service to that country, cashiered without default, and turned at large with a wild and pitiless world before him? Would it be a justification, in his judgment, if informed, that there are *unessential differences of opinion* grown up between them? Differences of opinion, he would reply, *if unessential*, as you represent them to be, deserve to be essentially despised and disregarded. Would it be an equivalent in satisfaction to him to be informed, that the vacancy occasioned by the removal of one was to be supplied by the substitution of another of his old comrades in arms? The circumstance might possibly cause him to pause for a moment; and had the vacancy occurred in the natural course of events, might have given him unalloyed joy; but, reflecting, he would soon reply, in the simple honesty of his heart, without the aid of counsel, “in *æquali jure, potior est conditio possidentis*.” The merits of the one cannot justify the infliction of unmerited distress on the other. If he be indeed a republican, when he shall discover that this infliction of distress is directly levelled against the fundamental principles of the government he loves, what must be his indignation?—Are you, sir, justified in your political intolerance by the preponderance of the public sentiment in your favour? The public sentiment is the result of the combined sentiments of individuals. No individual, surely, can be found so vain as to assert his own infallibility. If each and every man be liable to deception and error, the public sentiment, then, though aiming to be right, and though respectable even in its errors, may nevertheless sometimes be wrong, and “how should it be otherwise,” exclaimed the ever to be venerated WASHINGTON, at a former period, in the depth of his solicitude for our welfare, “when no stone has been left unturned to impress on the minds of the people the most arrant false-

hoods?" But be not deceived : the public sentiment cannot long continue in error : the people of the United States love their country and government, and whatever may be the strength of the present delusion, with whatever art that delusion may be fostered, so soon as a tendency in the principles and attachments of those who now plume themselves on the public favour shall be clearly seen, and practically evinced, as leading to the destruction of the energy of the government, and consequently to internal anarchy and confusion, or to the prostration of our national dignity, and the sacrifice of our independency to the all devouring ambition of a foreign nation, the great body of the people will recollect the admonitions of their beloved WASHINGTON, that *the tools and dupes of foreign influence* may sometimes *usurp their applause and confidence to surrender their interests*, and they will return to *their own federal and republican principles*. Matter, it is hoped, shall as soon cease to gravitate as the great body of the people of the United States shall cease to cherish the independence and self government of their country.

Thus pursuing a course of political persecution and intolerance inconsistent with your own principles and professions, as proclaimed in your inaugural address, irreconcilable with the honour and interest of our country, not justified by the examples of your predecessors, disapproved of by the anticipations of those who advocated your *enunciation* as president, and attempted to be screened only by a passing cloud of public delusion, is that respect, which all good men wish to see deserved by, and paid to those in authority, to be expected by you, in return for such conduct? The federalists, just greeted as brethren, are insulted with the title of a *political sect*, as if they were heretics deviating from the true faith, by the

chief magistrate of the union, in a public transaction ! These who think with you, sir, or without knowing your real sentiments and principles, have been deluded into a support of you, are to be delusively held in that service, by being taught to believe, that they are the only orthodox, and yourself the great chief of political orthodoxy !—Whatever might be the extent of federal tolerance, did you even expect a silent submission to such indignity ? The patience of Job was at length teased into a reply, and that not without tartness. Amid the admonitions of the mild and benevolent Author of the Christian system, of which it seems you have in these latter days become a great admirer, you might have found the following useful caution.

“ Judge not that ye be not judged : for with what judgment ye judge, ye shall be judged, and with what measure ye mete, it shall be measured to you again. And why beholdest thou the mote in thy brother’s eye ; but considerest not the beam that is in thine own eye ? Or how wilt thou say to thy brother, let me pull out the mote out of thine eye ? And behold ! a beam is in thine own eye ! ”—Should further instruction be desired, the original passage must be referred to.

After the political intolerance shewn by you, be not surprized, sir, if, in return, you shall find your political principles brought to the standard of the constitution, and there tested by reason and the result of experience ;—be not surprized, if you shall find the conduct of yourself and of those with whom you have been intimately connected, in opposition to the past administration of the government of our country, recalled to the public consideration, and exposed in new points of view :—be not surprized if an inquiry shall be made, what would probably be our present condition had the wishes of those who now boast the



public sentiment in their favour, been consulted?—What would be that condition had the counsels of those, who now assume to themselves unerring political orthodoxy, been adopted in the difficult crises through which we have passed? That our government has proceeded in the full tide of successful experiment,—that our country has been thus far kept free and firm, in despite of a persevering opposition, in despite of internal insurrection, and in despite of foreign hostility, encouraged, if not invited, from within, is the boast of federalism: nor can the malignity of the denunciation of political *sectarism* obliterate these facts, nor will the confession of these facts, extorted, as it has been, by their own notoriety, cease to be remembered by the virtuous citizens of the United States, when the mists of present delusion shall have passed away.

With the homage of all due respect,

I am, Sir,

Your fellow-citizen,

TACITUS.

## LETTER II.

To THOMAS JEFFERSON, *Esquire, President of the United States.*

SIR,

HAVING addressed you concerning the inconsistencies which appear between the principles and professions exhibited in your inaugural address of the 4th of March last, on the one hand, and your subsequent conduct and avowals, on the other; and hav-

ing referred you for admonition to a source, from the tenor of which you may possibly apprehend, that with what measure you have meted unto others, it may be measured unto you again, I am aware that you are ready to exclaim,—Behold ! “ An ocean of calumny, “ under which it has been thought expedient to endeavour to overwhelm my name.” (a) I am aware, that to such exclamation, those who have been prepared to sacrifice the Constitution, the union and the peace of our country to your exclusive elevation, will be ready to give all the weight and currency which are due to the complaints of injured and unoffending merit. But however your conduct may have justified a resort to the principles of retaliation, your example will not be adopted as the rule and measure of the animadversions which are proposed to be subsequently made upon your principles and conduct. The principles and conduct of individuals, in their private relations, are improper subjects for public discussion ; but the principles and conduct of public men, as connected with their public relations, which may materially affect important public interests, are surely fair objects of free inquiry. Considering the high station, in which you stand, your political principles and conduct cannot be a matter of indifference to those, who feel a just anxiety for the most important interests of our country. It is not to you therefore in your individual capacity ; but to you as Chief Magistrate of the union, that the present address is made. This address you will perceive to be intended as a commencement of an examination of the political principles and conduct of yourself, and of others, connected with you in your political career, as manifested in various

(a) See a letter from Mr. JEFFERSON, of the 9th of March, 1801, to a compiler of a *Dictionary of Elegant Essays*, in the Washington Federalist of July 22, 1801.

public, and well authenticated transactions. This examination, to use your own language, *will be proceeded in with deliberation and inquiry*, not however for the purpose of doing injury to any man, and still less of doing injury to *the best*; but simply for the purpose of diffusing truth—of *arraigning at the bar of public reason*, principles of dangerous tendency, and of unmasking pretended patriotism, “gilding its designs with the appearances of a virtuous sense of obligation, a commendable deference for public opinion. or a laudable zeal for public good,” in order that it may more securely usurp the applause and confidence of the people, and then seize on for itself, or surrender to others, their dearest interests.

General charges and harsh imputations, unsupported by clear and specific facts, evince the spirit of their authors, and not the guilt of those who are censured. You, Sir, in a letter bearing date at Paris, Nov. 18, 1788, which has since been published in a defence of your political character, were pleased to use the following words,—“I know there are some among us  
 “ [meaning the people of the United States] who  
 “ would now establish a monarchy; but they are in-  
 “ considerable in number and weight of character.”  
 (b.) In a note from you, addressed to your present confidential Printer, accompanying a copy of Mr. Paine’s Rights of Man for republication in America, you were pleased to express yourself in the following words,—“I am *extremely pleased*, to find it will  
 “ be reprinted here, and that something is at length  
 “ to be publicly said against the political heresies  
 “ which have sprung up among us.” (c.) In your inaugural address of the 4th of March last, you were

(b.) See the National Gazette, September 29, 1792.

(c.) See an extract of this note prefixed to Paine’s Rights of Man, by Samuel H. Smith, in 1791.

pleased to say—"If there be any among us, who  
 " would wish to dissolve this union, or to change its  
 " republican form, let them stand undisturbed as mon-  
 " uments of the safety with which error of opinion  
 " may be tolerated, where reason is left free to com-  
 " bat it." Why these general charges, if true? Whence this disposition "*ambiguas in vulgum spargere voces*"—to scatter censure, without specification, among the ignorant? If Sir, you *know* these things, as you assert you do; is it not your duty, publicly to point out the individuals, and to specify the overt acts, with all the incidents of time and place, necessary to fix the treasonable design? Thus that justice, which is due to all, might be fully effected: the innocent would stand free from all suspicion, and the guilty would be designated, if any such there be, as monuments, against which that public indignation might be levelled, which you now, by pretended forbearance and promiscuous censure, endeavour to excite against all who refuse to become the servile instruments of your views and designs. In so long declining to perform this duty, if in your power, are you not, in fact, guilty yourself of misprision of treason against those very liberties of the People, for the safety of which you express such extraordinary anxiety? Is this declination to be attributed to humanity and benevolence? Or is the charge itself to be attributed to a Tartar-like spirit, which conceives itself entitled to be adorned with all the virtues and great qualities of those, whose reputations it shall have previously murdered and destroyed? On this point, Sir, I shall not attempt a decision, though the course of my enquiries may probably furnish to others satisfactory means of making that decision. Wholly disregarding, Sir, your example, I shall at all times endeavour so to conduct my enquiries, through the aid of specific facts and references, as to exclude, all possibility of injury

from promiscuous, indeterminate, or unwarranted animadversion.

Is it for this, that a cry of ‘*an Ocean of Calamity*’ is to be raised in every vain answer to every fulsome address of sycophantic adulation? Have you not, Sir, yourself sanctioned ‘the diffusion of information, and arraignment of all abuses at the bar of public reason’? (d.) If then, in *the diffusion of information* dangerous principles and reprehensible conduct shall be unveiled, and pain shall be felt, when those principles and that conduct shall be “arraigned at the bar of public reason,” shall those, to whom those principles and that conduct shall be found to be fairly attributable, forestall the public sympathy by their anticipations of well-deserved animadversion? And shall those, who arraign those principles and that conduct at the bar of public reason, for the public good, incur the public indignation, because the pain of conviction shall be felt in consequence of the diffusion of information? The good sense and the justice of the American People never can sanction such injustice, however high may be the eminence, from which the bolt of that injustice may be launched.— Shall those who, from disappointment or malice, have heretofore collected loads of obloquy and heaped them upon the first worth of our country, (e) shall

(d.) See Mr. JEFFERSON’s inaugural address of March 4, 1801. Appendix No. 14.

(e) “I view the opposition which the treaty is receiving from the meetings in different parts of the union in a very serious light: not because there is more weight in any of the objections which are made to it than were foreseen at first; for there are none in some of them and gross misrepresentations in others; nor as it respects myself personally; for this shall have no influence on my conduct, plainly perceiving, and I am accordingly preparing my mind for, the obloquy which disappointment and malice are collecting to heap upon my character.”—*Extract from a letter of General WASHINGTON to Mr. RANDOLPH, July 29, 1793.* See RANDOLPH’s vindication, p. 35.

those, who have marshaled every engine of detraction against that worth, be the first to raise a Hue and Cry on such an occasion? True it is, such Hue and Cry may be raised without any wider departure from consistency, than what has already been exhibited in a variety of instances; but should it be raised, those, who may be disposed to join in the cry, are entreated to recollect, what would be the proper answers to the following inquiries?

Who was it that painted, to citizen GENET, certain characters, (obviously the principal characters, with General WASHINGTON at their head, who were uprightly and zealously engaged in the administration of the government of our country, and in the preservation of the public peace in the year 1793,) as "*aristocrats*,"—as "*partisans of monarchy*,"—as "*partisans of England*,"—and as "*enemies of the principles of republicanism*?" Who was it that painted them, or some of them, as "*aspiring to an absolute power*" and *initiated* citizen GENET *into mysteries*," in order "*to inflame his hatred against them*," in consequence of the colouring then given to their characters? (f)

Who was it, that when secretary of state of the United States, retained, as a clerk in his office, an editor of a newspaper, whose constant practice it was to usher to the public view the most virulent, abusive, and calumnious publications against General WASHINGTON, then president of the United States, and all who, (*without speaking in one way, and acting in another; without holding an official language and a language confidential,*) sincerely concurred in supporting his administration, whilst steering the vessel of state in that difficult crisis, between the rocks of

(f) See Citizen GENET's letter to Mr. JEFFERSON, September 18, 1793. Appendix, No. 3.

Scylla, on the one hand, and the whirlpools of Charybdis on the other? (g)

Who was it who wrote a famous letter to MAZZEI, in which all those calumnies were collected and concentrated, not without some of *the specific expressions* of VERITAS, who led the way amongst the most virulent of those calumniators?—(h)

Is it for services rendered on that occasion, either as the author or foster-father of those calumnies, that the reputed author of Veritas has been rewarded with a profitable station under the government of the United States, at the expense, *by removal*, of a meritorious and respectable man?

Was it not the custom of the reputed author of the letter to MAZZEI, *previous to its publication in this country*, whenever he passed near Mount Vernon, to call to pay his respects to the great and good tenant of that mansion? or, in case the urgency of business would not permit the call, to send his compliments with an excuse for the omission?

Did the reputed author of that letter, *after its publication here*, ever call, or send an excuse for the

(g) See the National Gazette, passim : particularly the letters of Veritas. See also RANDOLPH'S Vindication p. 37—"In time, when passion shall have yielded to sober reason, the current may possibly turn, but in the mean while, this government, in relation to France and England, may be compared to a ship between the rocks of Scylla and Charybdis. If the treaty is ratified, the partisans of the French (or rather of war and confusion) will excite them to hostile measures; or at least to unfriendly sentiments,—if it is not, there is no foreseeing all the consequences which may follow, as it respects Great Britain."—*Extract of a letter from General WASHINGTON to Mr. RANDOLPH, July 31, 1795.*

(h) By recurring to the letters of Veritas, and attentively comparing them, in their style, and even in some of their specific expressions, with the letter to MAZZEI, doubts formerly existing will be rather confirmed than otherwise, that *the reputed author* was nothing more than a *foster-father* indeed.

omission, during the remainder of the life of that illustrious personage?

Who was it that, upon the receipt and publication of the dispatches of General PINCKNEY, General MARSHALL, and Mr. GERRY, so far interested himself in behalf of the Aurora, as to write to his correspondents in various parts of the country, soliciting their exertions in procuring subscriptions for that paper; suggesting that it must otherwise fall, on account of its loss of support, in consequence of the disclosures contained in those dispatches, and the notorious devotion of that paper to the designs of France against our country?

In addition to that devotion, had not that paper, by its anonymous publications, been united in efforts with the letter to MAZZEI, to heap obloquy upon "the man first in war, first in peace, and first in the hearts of his countrymen," when on the day of his retirement from public life, it profanely presumed to use, in paraphrastic form, the exclamation of the good old SIMEON, not because the eyes of the editor had beheld *our government, then so far continued in the full tide of successful experiment, and our country so far kept free and firm*; but because they had beheld the day when the counsels of Washington were to cease to guide in the administration of the affairs of our country? (1)

Had not that paper been strenuously devoted to the purpose of endeavouring to affix to the character of that most respectable of men, charges the most base, the most wicked, and the most criminal,—*peculation*, (2) when his hands had been forever closed against retribution in every form, for services above all estimation, (3)—*murder*, for having, in his youth,

(1) See extract from the Aurora, Appendix, No. 1.

(2) See the essays of the Calm Observer in that paper.

(3) See Appendix, No. 2.



dared to defend his country against the insidious designs of France, (*m*)—treason, (for such is the true definition of the conduct of those who, at any time exercising the powers of the government of our country, may wish *to change its republican form*, and in that change may *aspire to an absolute power*.) though he had defended that country against the unjustifiable claims of Britain in war, and had given stability to it by his counsels in peace? (*n*)

Had not that paper, from a period shortly after the arrival of citizen GENET, become the general sink of calumny against every thing held dear and sacred by the wise and good?

Was it for all, or for any of these things, that it merited its boasted patronage from some “eminent in station under the government of the United States?” (*o*)

Who is it that, instead of taking care that the laws be faithfully executed, has placed obstacles in the way of justice, by resorting to *nolle prosequis* and *remititturs*, to screen the libellers of that government and the calumniators of WASHINGTON? (*p*)

(*m*) See various essays in the Aurora, designed for the purpose of affixing this charge upon General WASHINGTON, in consequence of his first encounter in his youth, with the French and savages upon our western frontiers.

(*n*) For this charge see the letter to MAZZEI and the many ambiguous insinuations of Mr. JEFFERSON, of which that letter may be considered as an explanatory index.

(*o*) Notice having been received of the exertions made in the country, at the instance of Mr. JEFFERSON, to procure new and additional subscriptions for the Aurora, a hint was given of it in the Gazette of the United States, in the month of June 1798; upon which there immediately came out in the Aurora an avowal and boast of that patronage.

(*p*) For instance, in the case of DUANE, as to the former, and in the case of CALLENDER, as to the latter.

Who is it, according to the admission of his own confidential apologists, has granted permission for the use of that naval force which was raised, not without the most strenuous opposition, for the protection of the honour and interests of our country, to the unprincipled and impious PAINE, another of the calumniators of WASHINGTON ? (q)

Was it to appease the manes of the illustrious dead, for these various indignities, that numerous pilgrimages are said to have been latterly performed to that venerable mansion which was honoured, in his life, with his fondest predilection, as the asylum of his declining years ?

Or was this purpose intended to be effected by designating him (who had, at the risk of life and every thing dear to man, uniformly contended, in peace and in war, for the ancient, well tried, and established principles of free government, and for the fundamental maxims of approved polity,) as “ our first and greatest *revolutionary* character,” (r)—or by the invidious insinuation, that “ his services *had* entitled him to the first place in his country’s love, and destined for him the fairest page of faithful history ;” as if his claim upon his country’s love, or a station in the fairest page of faithful history, were forfeited and no longer continuing titles ? (s)

But, sir, it is unpleasant to dwell on topics such as these, however necessary such inquiries may be rendered, to diffuse information of the genuine characters of some who, while in profession they admit the propriety of *the diffusion of information and arraign-*

(q) For the disgusting and shameful prevarications on this subject, and the final and full acknowledgement, see the Washington Federalist of July 15, 24, 27, and 31, 1801, citing the words of the National Intelligencer.

(r) See Appendix, No. 8.

(s) See Appendix, No. 9.

ment of all abuses at the bar of public reason, attempt, by odious stigmata, to deter all from resorting to the acknowledged right of free discussion, whensoever they fear that right may be exercised to their own, not injury, but disadvantage:—who, whilst they utter unfounded, general, and indiscriminate charges, of the highest degree of criminality against others, cry out, “*Oceans of calumny!*” whenever they dread a candid discussion of their own principles and conduct, upon specific facts and evidences, too notorious to be contradicted or denied. Nay, facts and evidences so incapable of defence or palliation, that it has been said, hopes have been expressed, that friends, as a proof of their friendship, would be silent upon such topics.

“*Pudet nobis hæc opprobria objici, et non potuisse refelli.*”\*

Unwilling to dwell longer upon such topics, though far from being exhausted, I shall proceed, fir, to an examination of certain of your political principles, authenticated in such manner as to exclude all controversy about their existence.

The first point, upon which I propose to examine your political principles, involves a most important object,—the preservation, or destruction of the fundamental barriers of the constitution, placed between the legislative and executive departments of the government of the United States.

That you, and those who are intimately connected with you in your political career, have been long disposed to bring into discredit those barriers, and to render indistinct the demarcation of powers between these most efficient of the departments of the government, is a fact which heretofore had not escaped observation. It is notorious, that those, who have uni-

\* It is disgraceful that such things can be said and cannot be contradicted.

formly directed their exertions to the support of those barriers, in strict conformity with the letter and spirit of the constitution, have been assailed for those exertions by the most odious political designations, and by charges of hostility to the principles of republican government. It is equally notorious, that attempts levelled against those barriers for their prostration, have been confidently assumed, as proofs of the superior, nay ! of the exclusive republicanism of those who have publicly dared to make those attempts. Evidences, evincing the truth of the foregoing positions, have been continually accumulating from the period, when the government was first put into operation, to (what is feared to be) the inauspicious moment of your present elevation. Yet, notwithstanding what had previously taken place, notwithstanding the apprehensions which had been entertained of the course which your administration might take in this respect, in order to enable you to escape from the constitutional responsibility of your station, and to throw the blame of your measures, in case of unfortunate consequences, upon the people themselves, by artfully pretending a commendable deference for public opinion, but pursuing, in reality, a cover against that responsibility, under the form of the guidance of their own representatives ; it is acknowledged, that it was not without surprize, your inaugural address was found to contain a direct avowal of that course.

“ To you then, gentlemen, who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement for that guidance and support which may enable us to steer with safety the vessel in which we are all embarked, amidst the conflicting elements of a troubled world.”

Such, sir, is the language with which you close the first section of your address. It is too explicit to be mistaken. You, sir, being “enounced according to the form of the constitution” President of the United States, to whom is confided the executive power of the government, the command of the public force, the conduct of our affairs with foreign nations, and the care that the laws be duly executed, look with encouragement for, or in other words, solicit not only that support and co-operation, which the constitution authorizes every chief magistrate to expect; but the guidance also of those charged with the sovereign functions of legislation. Can that guidance be looked for consistently with the letter or spirit of the constitution?

My present letter being protracted to a sufficient length it seems expedient to suspend my pursuit of this subject till my next. Accept therefore, in the mean time, my homage of all due respect.

Your fellow-citizen,

TACITUS.

### LETTER III.

*To THOMAS JEFFERSON, Esquire, President of the United States.*

SIR,

IN my preceding letter I have said, the expressions used by you in your inaugural address, on the subject of looking for guidance, were too explicit to be mistaken: they still seem so to me; but lest there

should be any cavilling upon the subject, let us examine them with critical precision.

“ To you then, gentlemen, who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement for that guidance and support.”

*The person looking, and those looked to*, for the objects specified, there can be no question about, upon the slightest view of the foregoing terms. You, sir, are the looker for, and the two houses of congress are those looked to : the objects also looked for are equally unquestionable, guidance and support.—The only doubts which can possibly rise in the case are, in what capacity, and for what purpose are those objects looked for ? The constitution, by giving power, expressly, to the congress of the United States, (in whom are declared to be vested all legislative powers granted by that instrument) “ to make all laws, which shall be necessary and proper for carrying into execution all powers vested by the constitution in the government of the United States, or in any department or officer thereof,” unquestionably authorizes every person who shall be elected to the office of President of the United States, to expect from that department the support necessary and proper to enable him to carry into execution the powers vested in him by the constitution, provided, according to the precautionary expressions of the Senate, his official conduct be directed to the honour and interests of our country. Hence it seems to be fairly deducible, that “ the support looked for” by you, sir, is looked for, in your capacity of President of the United States, and for the purpose of aiding you in that capacity, to carry into execution the powers vested in you by the constitution.

The same expressions which apply to the word “ *support*” previously apply to the word “ *guidance*” to

which the word "*support*" is itself an adjunct.—Hence it seems equally fair to infer that "the guidance looked for" by you, sir, is looked for in your capacity of President of the United States and for a purpose similar to that for which support was looked for, with an allowance for the variation in the signification of the term itself ; to wit, *for the purpose of guiding you, as President of the United States, in carrying into execution the powers vested in you by the constitution.*

Do the subsequent words "*which may enable us to steer with safety the vessel*" in any wise vary the construction, above supposed? If they do,—then the word "*us*" must comprehend *those charged with the sovereign functions of legislation*, as well as yourself, sir, who are charged with the sovereign functions of executive power. If this be the case, it then necessarily follows, that those who are to be the givers of guidance and support are also to be the receivers. To admit this construction, sir, would be to charge you with absurdity, as well as inconsistency, which surely neither yourself, nor any of your advocates will contend for or allow. The term "*us*" then, in this case, can only comprehend your own High Self, according to the style of certain august personages.

Do the subsequent words "*in which we are all embarked amidst the conflicting elements of a troubled world*" in any degree authorize or require a variation in the foregoing construction? The latter expression, it is true, seems to generalize the thing.—The vessel, like an ark, seems to be laden, not only with him who has the charge of the helm, and those charged with the sovereign functions of legislation ; but with the whole crew of the United States, *clean and unclean.*

Exclusively of the consideration of the variety of colours in the visages of such a crew, and *other incidents, not less material* ; the former absurdity still remains, so long as those charged with the sovereign

functions of legislation remain a part of the crew : they, if they be any portion of “ *us*,” to whom *guidance* and support are to be given, must still be receivers as well as givers. Moreover, if the rest of “ *us*” are also to be comprehended amongst the givers and receivers or either of them, such circumstance may lead to conclusions, for which perhaps we are not fully prepared. Can it be that our *individual sovereignties* and powers of *self-government*, have entitled us, in despite of our concessions in the constitution, to immediate shares in the sovereign functions either of legislation or executive power ? It is, however, to be remembered, that we are on ship-board, and what is more, in a storm,—“ amidst the conflicting elements of a troubled world.” A mutiny, or a shipwreck, may therefore, *de facto*, re-invest us with these powers :—in the former, the lowest is equal, if not superior to the highest, and in the latter, all subordination being at an end, each man becomes of course his own sovereign. (a) Finding then, sir, upon the most critical examination of the terms used by you, no just grounds for a change of construction, and in truth, all other construction being excluded, the question recurs, can that guidance, of which you have spoken, be looked for by you in the executive functions of your station, consistently with the letter or spirit of the constitution to those charged with the sovereign functions of legislation ? If there be any one principle clearly fixed in American polity, it is, that the great divi-

(a) “ *Necessities which dissolve a government do not convey its authority to an oligarchy or a monarchy. They throw back into the hands of the people the powers they have delegated, and leave the individuals to shift for themselves. A leader may offer, but not impose himself, nor be imposed on them.*”—Notes on Virginia. We have seen how these things have been ordered in France by the *Flatterers of the People* : if we refuse to take warning by their experience, we must prepare to submit to their fate.



sions of political power, legislative, executive and judicial, ought to be exercised by separate and distinct co-ordinate departments, as independently of each other, as may be compatible with the unity of government and the harmony of the whole. This object is avowedly aimed at in every existing government of the individual states; with various success indeed in the result, but in no instance without a clear recognition of the principle. The constitution of the United States, in conformity with this well approved maxim, sanctioned by the public sentiment, divides the government into those three departments, and assigns to each, with sufficient precision, its respective powers and duties.

Instead of placing the executive department under *the guidance* of the legislature, even in matters of a legislative kind, it has expressly subjected the legislative power itself to the controul of the executive by the means of a qualified negative, requiring, whenever the use of that negative shall be deemed expedient by the executive, that the will of the legislature shall not prevail, unless two thirds of each branch of that department shall, upon deliberation, concur in their former decisions.

Instead of placing the executive department under the guidance of the legislature, in matters of an executive nature, the constitution has expressly made the President of the United States responsible for the due and faithful discharge of the duties of the executive department, by subjecting him, in case of failure, to an impeachment by the house of representatives, one of the branches of the legislature, and by rendering that impeachment determinable solely before the senate, the other branch of the same department. The distribution of the powers and duties thus made between the legislative and executive departments of the government, even if that distribution rested upon prin-

ciples of doubtful expediency, so long as it retains its present constitutional obligation, ought to be sacredly binding on all ; especially on one, whose peculiar and solemn oath of office binds him to “ *preserve, protect, and defend the constitution.*”

If it be true, that “ *qui facit per alium facit per se*” (b) (and what truth can be more self evident ?) must it not necessarily follow, that a president of the United States who shall, in reality, submit himself, in the executive functions of his station, to the guidance of the legislature, must thereby become the servile instrument of the latter ? The powers intended to be deposited by the constitution with two of the great departments, as co-ordinate members of the government, to be by them separately and distinctly exercised, thereby necessarily become united and consolidated ; that union and consolidation effectually defacing every previous line of demarcation ; the responsibility which it was intended, by the constitution, should be peculiarly attached to the executive, becomes diffused over the whole body of the legislature, and by that diffusion is necessarily lost. Of little avail is it then, that barriers have been provided by the constitution between those departments : of little avail is it, that provision has been solemnly made, in the power of impeachment, against the enterprizes of ambition and the subversion of those barriers, unless the public vigilance and the public sentiment guard and enforce the sanctions of the constitution, and a just indignation be pointed against every attempt, knowingly made, whether successful or not, secretly to sap or directly to overthrow those barriers.

(b) “ He who acts by another, acts by himself,”—or in other words, whether a principal act immediately by himself, or mediately by an agent, the authority is one and the same, in either case.

If either branch of the legislature, deluded by the vain idea of an increase of its powers, through the addition of the dangerous prerogative of guiding and directing the executive, in the duties pertaining to that department, should be disposed to accept the proffered guidance, the most serious calamities might ensue, and, if remediable at all, not remediable until a distant period. If the house of representatives were to accept the proffered guidance, would they impeach their instrument, who had flattered their vanity, by contributing to an increase of their powers, for the disastrous consequences of measures of their own guidance, and consequently their previous approbation? Can the senate condemn without an impeachment exhibited? If the house of representatives were to remain sound, and the senate were to accept the proffered guidance, would it not be equally vain that an impeachment should be exhibited? Would the senate condemn one whose measures they had previously guided, consequently approved? The uniform testimony of the history of human nature forbids the expectation. Whether then this guidance be accepted, in whole or in part, by the legislature of the United States, if accepted at all, the consequences are equally inevitable. Whatsoever may be the misfortunes which may befall our country from measures of an executive nature so guided, the people must necessarily be deprived, for a time, perhaps forever, of the advantages of that check, about the importance of which so much was said heretofore, when, during the administration of WASHINGTON himself, the chief justice of the United States (who, by the constitution, is required to preside whenever a president shall be impeached) was absent, for a short time, upon an important public service.

If, by an artful advance of this sort, a president of the United States shall be suffered to prostrate a

fundamental barrier of the constitution, and thereby bring into one indiscriminate mass the powers of the legislative and executive departments, will not the result too probably be, whatever may be the intention, to throw our country into a state of convulsion? If such attempt shall fail of that result, through the rejection of the legislature, ought it still to pass, not only with impunity, but even without any mark of public indignation set upon it? Under a continual exposure to the enterprizes of designing and ambitious men, unawed by apprehensions either of danger or indignation, what is to be the continuance of our republican system, and the duration of all the important objects of its institution?

But perhaps it may be said, why these anticipations of evil in prospective? Is it becoming to suppose, that the legislature of the United States, or either branch of that body, will accept this proffered guidance, or, accepting it, will exercise that guidance in such manner as may prove calamitous to our country? I wish, sir, not to be deficient in due respect to to any; but it has already been the boast of those who triumph in your elevation, that a majority will be found in one, if not in both, of the branches of the legislature of the United States, whose sentiments will be congenial with those professed by yourself: and public report has done much wrong to the heads of some of your assistant departments, if they have not been already most indecorously engaged, as agents of electioneering intrigue in different parts of the union, for the purpose of securing those majorities—a precedent such as has neither been seen nor heard of before, in our country, from the origin of the government till the present period. Can it be, that upon an expectation of the existence of such majorities many of the extraordinary acts of your administration have been hazarded, into which, from

their intrinsic impropriety, it should seem no man, possessing a sound understanding, whatever the wishes of his heart may be, would have ventured, unless upon a presumption of being supported through all measures, right and wrong? But whatever may be the purity, nay, sir, permit me to add, whatever may be the wisdom which may be found in numerous bodies, such as those of either of the branches of the legislature of the United States, they are incapable, in the nature of things, of exercising a guidance in the affairs of the executive department, without bringing on our country the calamities which have been anticipated. To the limits of their respective powers, as marked in the constitution, each department of the government, it is believed, can go with safety and advantage; but beyond these limits, the maxims of wisdom, founded on the experience of every country, warn us, that incalculable dangers await us.

I shall say nothing at present, sir, of your motives and views in this solicitation of guidance, and proffer of submission; but what has been the uniform tendency of such guidance, I hold myself free to inquire, and your perfect knowledge of that tendency, I hold myself free to demonstrate. If these things shall be fully accomplished, your fellow-citizens will be enabled, each for himself, to form satisfactory conclusions concerning your motives and views. Lest, however, it should seem, that I have attached an undue importance to your expressions of *looking with encouragement for guidance to those charged with the sovereign functions of legislation*, I shall take the liberty of reviewing some of those evidences before alluded to, which had induced apprehensions of the course your administration would take, previous to

your declaration in your inaugural address. This review will be commenced in my next letter.

Accept my homage of all due respect.

Your fellow-citizen,

TACITUS.

#### LETTER IV.

To THOMAS JEFFERSON, *Esquire, President of the United States.*

SIR,

IN my last letter addressed to you, I took the liberty of proposing, (before I should proceed to the attempt of demonstrating the tendency of the guidance looked for by you, and lest it should be supposed, I had attached an undue degree of importance to the expressions used by you,) *to review some of the evidences*, which were stated to have been accumulating from the period when the government was first put into motion, to the inauspicious moment of your present elevation, of a disposition supposed to exist to bring into discredit the barriers established by the constitution between the legislative and executive departments of the government of the United States, and to render indistinct the demarcation of powers between those departments. *This, sir, is a painful office; but it is made the duty* of some citizen, who feels a sincere solicitude for the happiness of his country: without pretending to talents or information, equal to the talents or information of many others,

to capacitate me for this undertaking. without claiming a superiority, yet unwilling to concede an inferiority of zeal for that happiness, *I meet the duty as such.*

Let us then commence with the commencement of the government, and, after a momentary view of the construction then made of the relative duties of the legislative and executive departments, let us proceed with a review of those evidences.

General WASHINGTON, in his first address delivered to congress at the first session held under the present constitution, I find to have expressed himself upon this subject in the following manner.

“ By the article, establishing the executive department, it is made the duty of the President, (said he, repeating the words of the constitution) ‘ to recommend to your consideration such measures as he shall judge necessary and expedient.’ The circumstances under which I now meet you, will acquit me from entering into that subject farther than to refer you to THE GREAT CONSTITUTIONAL CHARTER, under which we are assembled, and which, in defining your powers, designates the objects to which your attention is to be given.”

What, sir, can be further from soliciting guidance? Does the great constitutional charter, to which he then referred the legislative department, contain anything concerning the guidance of the President, in the executive functions of his station? The legislature, it is true, have power to declare war,—to declare when letters of marque and reprisal may be issued, and to enact laws, in aid of the laws of nations, where, by the latter, offences or their punishments are not marked with sufficient precision; but does it follow from thence, that the guidance of the executive, in duties properly of an executive nature, can be exercised by the legislature? The President, it ap-

pears, is required to recommend to the consideration, of congress such measures as he may judge necessary and expedient ; but where are we to find any thing like guidance in return ? The objects of his recommendation, being addressed to the legislature, must obviously be directed to their legislative deliberation. *The information* also, which he is required to give, from time to time, of the state of the union, has as little to do with legislative guidance in executive duties. The state of the union being known, it is the duty, as it is within the power of congress, to make the provisions necessary and proper, to enable every department and officer of the government to fulfil the duties of their stations respectively. Such seems to have been the construction of General WASHINGTON and of the different branches of the legislature at that period, when the constitution was, as it were, yet recent from the plastic hand of many who were then deputed to act under it. *The co-operation of all*, each within the limits of constitutional power and duty, seems to have been the ultimatum of expectation on every part ; *mutual pledges* therefore for that co-operation, and not for guidance, were exchanged between the executive and the different branches of the legislature. (a) It cannot, however, be denied, but that the propriety of this idea of the constitutional independence of the different departments was, even at that time, contested by some. There were then, as there now are, and forever will be, some who, arrogating to themselves a pre-eminence in republicanism, become the advocates of principles (the disgrace of the republican name) continually leading to anarchy and confusion. Neither the benevolent cautions of wisdom, nor the

(a) See the answers of the two houses and the replies of the president.



awful warnings of experience, can cure such political empirics of their infatuation.

The first evidence of a spirit hostile to the barriers of the constitution, of which I shall take notice, occurred during the first session of the first congress under the present constitution. By recurring to the journals of the house of representatives of that session, it will be found, that, on the 18th day of August, 1789, a variety of propositions, said to be for amending the constitution, were offered to the house; that a motion was made, that those propositions be submitted to a committee of the whole house, to whom had been referred certain amendments reported by a special committee; and that among the propositions then offered was the following, to wit:

“ Art. 2, sec. 2, clause 1.—Strike out the words—*be commander in chief*, and insert—*have power to direct, agreeably to law, the operations.*”

This proposition, had it been adopted, would have caused the clause which now declares that “ the president shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States,” to run in the following terms:—The president shall *have power to direct, agreeably to law, the operations* of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States.

This proposition, with those accompanying it, was denied even a reference to the consideration of the committee proposed: with so little respect were such ideas then treated. Had the change contemplated been adopted through every requisite formality, it would, even then, have made the president in part only what, sir, you now propose, without any formality, to make him in the whole; the servile instru-

ment of the legislature. From what source this proposition for an amendment, *as it was called*, had originated, adequate information is not possessed for a decision ; but that you, sir, had your full share in exciting the rage for amendments, *as they were called*, which prevailed at that time, is now pretty well understood : and from your present disposition to place the executive functions of your station under the guidance of the legislature, a strong presumption arises of the source from which that particular proposition then emanated.

The next appearance of this spirit was in the form of an attempt to excite dissatisfaction at the conduct of General WASHINGTON, in issuing his proclamation of neutrality. You well know, sir, the arguments used to induce him, at that time, to submit himself, in the duties of his station, to the guidance of the legislature ; but he, being satisfied that our country was not bound to become a party in the war, resisted every insidious artifice to induce him to call together the legislature before the usual period, and took his course, in the mean time, at his own responsibility. The wisdom of the measure was proved by the issue : the delay gave Citizen GENET time to expose his own character, and the tendency of his designs. His discontent, however, and that of his secret co operators, were in proportion to the disappointment of their hopes in the advantages, looked for, from the intrigues of such an agent with a numerous body of men, where characters of great variety must necessarily have been found. The exertions made on that occasion to bring General WASHINGTON under the guidance of the legislature, (who, it was hoped, might again be guided by Citizen GENET) having failed ; the proclamation of neutrality was attacked : that, and the character of him by whose authority it was issued, were attempted to

be stigmatized, by giving to that instrument the denomination of *a royal proclamation*. The virulent abuse of VERITAS was brought forward and the insidious sophistry of HELVIDIUS was plied, in order to discover what impressions could be made (by open assault or secret undermining,) on the public mind.—The unworthy duplicity, practised on that occasion, must forever reflect the greatest dishonour on those guilty of it; but this subject deserves to be handled more fully than the present occasion seems to admit of. Let us therefore proceed to the succeeding appearances of this restless, and it is to be feared, fatally mischievous spirit.

Its next appearance was in the form of discontent, at the nomination of Mr. JAY, as envoy extraordinary to Great Britain. The circumstances, under which that nomination was made, deserve to be briefly recapitulated.—War having been declared by France against Great Britain, strong symptoms of resentment and antipathy against the latter, and of violent prejudices in favour of the former, had been exhibited on various occasions and in different quarters of the United States. Perhaps, indeed, even that department of our government, which was charged with the conduct of our affairs with foreign nations, had through inadvertence, certainly without unfair design, ventured into measures with regard to France, the strict compatibility of which with the duties of neutrality was not entirely free from question :—the anticipation of the instalments of our debt to France, obviously serving to alleviate her difficulties, brought on her by a war declared by herself, and the permission of the sale of her prizes, without previous regular condemnation, in our ports,—neither supported by prior stipulations, and the latter unauthorized by the practice of France herself, or the laws and usages of nations generally, afforded at least a pretext

for dissatisfaction. Britain, possibly from a combined view of all these circumstances, calculating upon our being drawn into the vortex of war on the side of France, had issued her famous instructions, authorising the capture of American bottoms, and the carrying them in *for adjudication*. Under these instructions, captures to a great amount were made, and condemnations, whether authorised or not, followed. Notwithstanding the evidences of favour, which had appeared in behalf of France, founded on the presumption, that she had, in good faith and in conformity with her professions, abandoned her former ambition, and dangerous designs of aggrandisement, and that she intended nothing but her own internal reform, and a just resistance against the interference of others : it was nevertheless certain, that the great body of the considerate and respectable of our countrymen, in conformity with the proclamation of the President, were anxious to preserve an impartial neutrality. But this conduct of Britain, apparently disregarding the pacific disposition manifested by our government, and the well known wishes of the sounder part of the nation, well nigh threw our country into a flame of general indignation. Amidst this ferment, certain propositions, the result of honest indignation, but nursed and promoted by insidious design, were brought forward in congress, which, though not amounting to a declaration of war, it was easy to be foreseen, if adopted must inevitably terminate in war. The controversies of nations, however commencing, must ultimately be settled by the principles of the laws of nations : whatever therefore may be the injuries which one nation receives from another, and however inconsistent, in point of mode may have been the commencement of those injuries, with the principles which ought to regulate the intercourse of nations ; yet it has been seldom

seen, that the injured nation has derived any advantage from abandoning the accustomed forms of procedure on such occasions. These forms required of us, on our part, a demand of satisfaction, before a recourse to the last horrid resort. General WASHINGTON, under these circumstances, anxious to preserve our peace as the means of our rising prosperity,—anxious to throw every portion of blame from his country, in case war should at last be found to be unavoidable, thought proper to arrest the proceedings in congress ; which, by their precipitance, tended to endanger our peace, whilst yet by possibility that peace might be capable of preservation, without a sacrifice of national honour. He therefore nominated an envoy extraordinary, to make known our sense of the injuries which we had sustained, to demand a cessation from further injuries, and to claim compensation for those which had been suffered. The measures which were then contemplated in congress and which were thus arrested, though not within the usual practice of nations, are supposed not to have been absolutely without the limits of the legislative power : the means by which they were arrested, were clearly within the constitutional limits of the executive power. The only question therefore which ought to have arisen on the occasion was, which course was more truly conformed to sound wisdom and policy. But the discussion of this point satisfied not those, who above all things wished to precipitate our country into war, and thereby to compel us to make *a common cause with France* : they reprobated the measure, not only upon the score of wisdom and policy, but they asserted also, that it was inconsistent with constitutional propriety—When one department, it was said, and that too consisting of the immediate representatives of the people, had, as it were, pre-occupied a subject, it was altogether inconsistent with the rela-

tions which ought to exist between the departments, for another, and that too the executive, to step in and supersede their designs.—Much abuse, in consequence, was showered down on the reverend head of the preserver of our peace and the father of our national liberties: but the independence of his conduct set a glorious example to his successors and will forever do him honour with all independent men; however it may seem to those, who, shrinking from the responsibility of their stations, would fain place themselves under the guidance of others. The wisdom of this measure has also been proved by the event. Let those who doubt it review the conditions of those nations, who have been drawn into the war, and honoured as the allies of France.

The independence displayed by the executive on this occasion, convinced “the friends of France or rather of war and confusion,” that they had nothing to expect favourable to their designs, so long as WASHINGTON should continue the Chief Magistrate of the union; unless some means could be devised for destroying the balance of the constitution itself. For this purpose therefore (it seems at that time to have been decided) the people were to be addressed in the most flattering manner: they were to be told continually, that the house of representatives were more peculiarly their representatives than any other part or branch of the government; and consequently the only republican part of the constitution:—that the executive in particular was, in its nature, essentially anti-republican, that it was already too strong for the republican parts of the constitution, and consequently that it must be hostile and dangerous to republicanism, unless it could be reduced, by voluntary surrender, or otherwise, to a state of guidance under those charged with the sovereign functions of legislation. By such means it was hoped the public af-

fection and confidence might be withdrawn from the support of an independent executive, and a preponderating influence, destructive of all balance, ultimately thrown into the scale of the house of representatives. From that period therefore a determination seems to have been taken to make the best advantage of this principle, on all opportunities that should subsequently be presented. The negotiations and treaty of Mr. JAY, as being a sequel of the same business, seem to have been preferred for the first attempt. A resolution, we know, was proposed and unfortunately carried by the concurrence of many, who, it is believed, if they had clearly seen through the design, would have rejected it with indignation. The ostensible object of this resolution was to obtain a view of the instructions given to Mr. JAY, and of the correspondence during the negotiation, as if any information to be derived from thence, could enable those, who desired it, more sagely to make provisions for carrying that treaty into effect. The real object of that resolution was obviously to establish a precedent for interference and control, which you, sir, are pleased to term *guidance*, in the powers and duties of the executive department. The papers demanded are said to have been previously accessible to, and to have been actually seen and read by those, who were most strenuous in supporting the resolution : if this be so, information could not have been needed. Much pains had been previously taken to excite all possible odium against the treaty and every thing connected with it : these exertions, it was hoped, would aid in conciliating the public sentiments to this attempt of usurpation. But the strong good sense, and the irrefutable reasoning and proofs contained in the answer to that requisition, confounded the machinations of those, who had thus insidiously designed the subversion of the constitutional independence of the execu-

tive department. As a complete antidote, fir, to your solicitude for guidance, I take the liberty of recommending that communication to your further consideration, and to the consideration of my fellow-citizens generally.

One further abortive attempt, however, was made during the administration of General WASHINGTON, in pursuit of this object. That attempt, as a dernier effort, was as bold as it was unprincipled. It asserted, in defiance of the express provisions of the constitution, nothing less than that a negative upon all treaties, which required appropriations to carry them into effect, necessarily resulted to the house of representatives, without whose assent it was pretended no such treaty could acquire complete validity.

That no act of appropriation for carrying a treaty into effect can be passed without the concurrence of the house representatives is unquestionably true: it is equally true, that no act of appropriation can be passed for paying the fixed salaries of the president or the judges, or for discharging the most just and acknowledged demands against the public, without a similar concurrence: but is it to be inferred from hence, that the constitution intended to render "the executive and judiciary dependent on the house of representatives for their subsistence in office," or that the American people could ever have intended, by any act, the establishment of a power in our country, with authority to set at naught the eternal relations of justice? The physical power to refuse a concurrence for such objects, like every other power to do wrong, unquestionably exists; but it is a power which cannot be exercised consistently with justice or good faith. If this concurrence may, with propriety, be withheld in any one case, in defiance of justice or good faith, it may obviously, in all instances, be converted from armour simply of a defen-



five kind against arbitrary power (its true and original nature) into weapons of the most dangerously offensive nature. Thus armed, the legislature, or even the house of representatives alone, a branch of the legislature, by assuming the disposition of a besieging army, might set themselves down around the other departments of the government, and by refusing to concur in necessary appropriations, they might starve the executive, the judiciary, and every branch of the government into submission and compliance with their particular views and designs, unless the public sentiment should compel them to raise the siege. They might, in conformity with such principles, concentrate all powers in their own hands, to be dealt out by those under their special guidance, or, as an only remaining alternative, horrid indeed ! but not more horrid, they might compel a dissolution of the government and of the social compact.

To counteract and check this disposition, which was thus manifested during his administration, was one of the objects which the first of presidents had most at heart, as being of infinite importance to our future peace, order, and good government. He saw clearly through the capacity of this principle for working mischief ; its address to the passions, under the plausible pretext of promoting the power and importance of the people ; and its inevitable tendency “ to create, whatever the form of government, a real despotism.” When about to retire from public life, he therefore made it one of the objects of his solicitous admonitions to us on that occasion.

Would to Heaven, sir, for your own honour and for our happiness, that you had more studied and respected the example and the precepts of this great, and what is more, of this good man ! In that case, your fellow citizens would never have suffered the mortification of being witnesses to an invitation to

usurpation, by a proffered surrender of the independence of your official station. In that case you would never have sought popularity at the expense of right principles. He was accustomed to say, "there is but one straight course in the these things, and that is to seek truth and to pursue it steadily." "Honesty" too, he would say, "is the best policy." There needed for you, sir, in addition to what you possessed, nothing more than a due degree of real modesty, of candour, of liberality of mind, and of good intentions, (*b*) to have opened to you the fairest field of honourable fame that ever was presented for easy gathering.

The principles of your immediate predecessor, for whom you heretofore professed such high respect, and the occurrences during his administration, relative to this subject, must be postponed till my next.

Accept, Sir, in the mean time, my homage of all due respect.

Your fellow-citizen,

TACITUS.

(*b*) These qualities are supposed necessary to imply the existence of real worth, from which, as from their sole source, they can only proceed.

## LETTER V.

To THOMAS JEFFERSON, *Esquire, President of the United States.*

SIR,

YOUR immediate predecessor in office, to whose talents and integrity you have borne the most public testimony, (a) was early distinguished by his exertions in our first advances towards a station among the independent nations of the earth. At that period, being under an impression, that "less of danger was to be apprehended from the formidable power of fleets and armies which might be brought to act against us, than from those contests and dissensions which might arise concerning the forms of government to be instituted over the whole and over the parts of this extensive country," (b) he seems to have formed the generous design of reviewing the political history of every state and nation from which instruction might be gleaned, for the advantage of his countrymen. Taking the recommendation of BACON and the example of BOYLE, in tracing the philosophy of material nature, for his direction, in tracing the philosophy of man and government, (I hope I may be pardoned for the expression) he rejected all vain theories, and confined himself to the actual experience of mankind. The result of his immense labours and patient industry may be seen in his "*Defence of the Constitutions of Government of the United States of America*"—a work in which the great and essential

(a) See Mr. JEFFERSON's inaugural address of March 4, 1797. Appendix No. 13.

(b.) See Mr. ADAMS's inaugural address, March 4, 1797. *American Senator*, vol. 3. p. 780.

principles of all free government are explained and enforced by reason, illustrated by proofs and examples, and maintained with an honest independency of sentiment and soundness of judgment, that do great honour to the author. To this work, as to a vast repertory of valuable instruction, the grave and the considerate, whilst pondering on the most important interests of mankind, will have frequent recourse, when the "Notes on Virginia," with all their tinsel beauty, shall be considered but as the idle prolusions of vanity, unless indeed by those, and such as those, so justly characterized by the old farcical bard, in the following lines :

*Cedo qui vestram rempublicam tantam anisistis tam cito ?  
Proventabant oratores novi flulti, adolescentuli. (c)*

Among the various principles illustrated and established in that valuable work, none is more dwelt upon, or is rendered more obvious, than the necessity of a balance of the interests and powers naturally and necessarily existing in every society and assemblage of men, to the peace and happiness of the whole. This is laid down by him, as the basis of all moderate and free government, and is unquestionably so. The necessity of an executive, maintaining its authority with an erect independence, is at the same time demonstrated, not only as it relates to the support, but even to the existence of that balance. The constitution of the United States contemplated, without question, the establishment of such an executive, and not one which was to betray the trust confided to it, by a submission to the guidance of those charged with the sovereign functions of legislation.

In what manner the duties of that station had been discharged by General WASHINGTON, when its

(c) See Appendix, No. 10.

independence was attempted or assailed by faction or infatuation, we have already seen : it remains to trace some of the further abortive attempts of that spirit, during the administration of his successor, and your immediate predecessor.

Shortly after Mr. ADAMS had been called to the chief magistracy of the union, information was received by the government, that France had come to a determination not to acknowledge or receive another minister plenipotentiary from the United States, until after a redress of grievances demanded of the American government, which it was pretended the French government had a right to expect from it. The French government had previously discontinued their own minister to the United States, without a clear and consistent explication of the nature and extent of their own demands and expectations. Such declaration, therefore, on the part of France, and under such circumstances, amounted, in effect to a declaration of war : for when one nation thus declares its high dissatisfaction with another, and precludes all means of explanation, it must be considered either as abandoning what it claims, or intending to pursue that claim by force of arms. The manner of the declaration, as well as the general spirit by which that nation was actuated, forbade the supposition of an abandonment of claim : hostilities, therefore, were the only rational inference that could be made. Such inference we unquestionably had a right to make, nor was it disproved by subsequent events.

In this extraordinary state of things Mr. ADAMS called congress together ; he laid before them the state of the union, and of our relations with France ; and in order that his general intentions might not be unknown to those whose duty it was to co-operate with him, and to place their country in a state of preparation to meet the approaching crisis, he

thought proper to state, that notwithstanding the indignity offered to our country, it was his determination, “in conformity with the general desire to preserve peace and friendship with all nations, to institute a fresh attempt at negotiation,” and to endeavour “to promote and accelerate an accommodation, on terms compatible with the rights, duties, interests and honour of the nation.” He was pleased to add (what to be sure must have been understood, if not expressed) that if we had committed errors and these could be demonstrated, we should be willing to correct them: if we had done injuries, we should be willing on conviction to redress them; and equal measures of justice we had a right to expect from France, and every other nation.

This declaration, as exhibiting to the world, in a solemn manner, the moderation and justice of our views and expectations, was not misplaced; and in this light only ought it to have been viewed: yet slight as was the occasion, it was greedily seized upon by that spirit, which had so often struggled to usurp *the guidance* of the executive. Under the pretext that this general declaration might be considered in some sort, as a submission to that *guidance*, an attempt was made to prescribe to the executive the principles of the instructions, which should be given to the ministers to be employed on that occasion, and the terms upon which an accommodation should be negotiated. The attempt was resisted, and in a great degree defeated by the more considerate; but the struggle on this point consumed not a little of time. Upon what principle is it, sir, that such a pretension could be justified? You yourself have heretofore stated that the executive is “charged with the conduct of our affairs with foreign nations.” The terms used in the constitution are too explicit to admit of a doubt, “that the power of making treaties is exclusively vested in the Presi-

dent, by and with the advice and consent of the senate, provided two thirds of the senators present concur.” But if another division or branch of the government may arrogate the power of prescribing the principles of instructions, to be given to ministers, and the terms of accommodation ; is not that division or branch in effect the negotiating and treaty-making power ? The principles of common sense preclude all question in the case. (*d.*)

At the succeeding session of congress, it became necessary to continue an act, which was almost coeval with the government, and which in the nature of things, as to its general principles, must be as durable, as the government itself ; but which had been passed and renewed, from time to time, with a clause limiting its duration. This act specified the rate of compensation which should not be exceeded to the ministers and diplomatic agents of the United States ; and appropriated a moderate sum, to be at the annual disposal of the President for that purpose, but to be accounted for, as to its application, before the accounting officers of the Treasury. In such a case it seemed to require more than ordinary ingenuity to find a pretext for a dispute ; but a spirit of usurpation, though destitute of ingenuity, is seldom at a loss for pretexts. The wolf in the fable, when he had been foiled by the lamb in every pretext that he thought proper to specify, set up other pretexts without specification, and resorted to his superior strength, for the proof of the justice of those unspecified pretexts.—What can be said to men when, in defiance of the explicit terms of the constitution declaring that “ the

(*d.*) See the address of Mr ADAMS to congress, May 16 1797. The correspondence of GEN. PICKNEY laid before congress at that time ; and the debates of congress on this subject in the public papers.

President shall have power to nominate, and by and the advice and consent of the senate, to appoint ambassadors and other public ministers ;” they shall boldly come forth and declare, that because the expenses to be incurred by such appointments, cannot be provided for, but by an act, to which the concurrence of the house of representatives is necessary ; therefore the house of representatives have power to prescribe to the President, not only of what grade ministers, to be nominated and appointed by him, shall be ; to what nations ministers shall, or shall not be sent ; but even that the house of representatives have power *to do away* the very power itself of making such appointments ? Strange as it may seem, these pretensions have been made in the face of the American people, and what may seem more strange, by those who have professed themselves to be the defenders of the principles of the constitution in their utmost purity. The power of appointing ambassadors and other public ministers is obviously an inseparable incident of the national sovereignty, arising under the laws of nations ; the constitution does not create, it only recognizes the power, as already existing ; and specifies the department, which shall exercise that power. Under such constitutional provision, let us suppose that no legislative act, prescribing the rate of compensation, or making appropriations for the purpose, existed ; let us suppose in such a state of things, a crisis occurs, in which it is deemed proper by the President to nominate, and upon receiving the advice and consent of the senate, to appoint a public minister to a foreign nation, to transact some important business, relative to the interests of our country : let us suppose the individual, thus appointed, sufficiently wealthy to defray, out of his own resources, the expenses of such mission in the first place, and sufficiently patriotic to encounter, upon such terms, so weighty



and important a duty :—let us suppose the services, either successfully performed, or every reasonable exertion made without success. What would be the situation of such a man ? His appointment being from those, whom the will of the nation, expressed in the constitution, had authorised to make such appointment, is his title to retribution for his expenses, and to compensation for his services. a matter of strict justice. or is it merely *ex gratiâ* ? Our holy religion tells us, that *the labourer is worthy of his hire* ; and natural reason tells us that the relations of justice (like the equality of the radii of a circle, which potentially existed before the circumference of a circle was ever described) existed previously to all positive laws. The obligation then to appropriate, to the amount of what might be reasonably due in such case, is imposed by an authority paramount to that of man : nothing can excuse for the non-performance of such duty, except physical inability ; which, equally powerful with necessity, is a check, that controls even the moral law, as to the performance, but not as to its principles. What then can be the effect of the only remaining power in such case, that of enquiring into the quantum, which ought to be rendered ? Can this power rightfully annihilate the obligation, by fixing the quantum at nothing ? As well might a jury, impanelled to enquire of damages upon a *quantum meruit*, in the ordinary administration of justice, between man and man, where the demand was already conclusively admitted, in defiance of justice and the admission of the party, find that nothing was due.—Ought not the same eternal and immutable principles of justice to govern alike in all cases, whether a congress of the United States, or a jury in a court, be the body employed in enquiring into its relations ? Can the discretion of the one rightfully claim to itself a greater latitude than the discretion of the other ?

Discretion itself, when correctly understood, what is it but *the exercise of the discerning powers of the mind*, for the purpose of discriminating between truth and error, right and wrong, duty and its contraries, and all the causes of preference and rejection in the various incidents of life? In relation to the subject of compensation to the ambassadors and public ministers of the United States, when it is *discerned*, that the will of the nation, expressed in the constitution, has vested the power of appointment exclusively in the executive to be exercised by and with the advice and consent of the senate; when it is *discerned*, that if such appointment be made, and service rendered, a perfect obligation arises for compensation; when it has been *discerned*, that the abilities of the nation are adequate to the purposes of justice, what further object remains for legislative *discernment*, or *discretion*? Surely nothing more than (considering the ordinary course of human affairs, and the certainty, that the relations of our country with foreign nations must and will require diplomatic agents to some extent,) whether it be expedient to make provision before hand for such service, lest the public interest should suffer, or to wait till the services shall be performed, at the private expenses of the persons appointed and employed? If it shall be decided, that it is more conducive to the public welfare, to anticipate such expenses by previous appropriations upon conjectural estimates, to be accounted for as has been customary; are other principles to apply? or will it be pretended, that the relations of justice are changed, in consequence of a decision in the favour of the one course or the other? If there be ground for variation, what is it? (e.)

From the pretensions set up, in this case, to the guidance of the executive, a striking illustration is

(e) See the Debates on this subject in the public papers.

presented of the extravagant use which may be made of a perversion of principles. The concurrence of the house of representatives in an act of appropriation, (a provision in its nature merely defensive against wrong) being converted into an offensive weapon, is rendered capable, by the aid of a little heat and political sophistry, of subverting the constitution and setting at naught the will of the nation, of annulling the general laws of nations and the eternal principles of justice and right.

Could it have been conceived necessary or desirable to expose the disorganizing principles, or rather the destitution of all principles, of such men, in their hostility to the executive department, when exercised independently of their guidance, nothing more opportune could have occurred, than a debate, which took place at the succeeding session of congress.—An individual, it seems, about the close of the preceding session, under strong indications of his being an agent of a faction in the United States, carrying on a correspondence, though not treasonable, certainly of a most questionable nature, with the government of France, set out from Philadelphia on a visit to Paris. Similar occurrences, it was known, had taken place from other countries, preparatory to the maturation of conspiracies of the most dangerous kind, and in some instances, terminating in the absolute extinction of the independence and self-government of those countries. (f) Various disclosures relative to this mission,—the gene-

(f) See Mr. Burke's Posthumous Works, par. 2d, p. 14. concerning Mr. Fox's embassy by Mr. Adair to Russia, Appendix No. 11. See also Gifford to Burke, near the close, on the same subject. See D'Iverno's Revolution of Geneva concerning embassies to Paris of like nature. See Mr. Monroe's view and appendix p. 102, and 110 concerning the embassy of Dutch Patriots to Paris.

ral complexion of affairs, and the dangers to be apprehended from a repetition of such conduct, if suffered with impunity, induced the congress of the United States to take up the subject with a view to future prevention. In the debate which took place on this occasion, the very men, who had most strenuously endeavoured to throw obstacles in the way of the constitutional exercise of the powers of embassy by the elective Chief Magistrate of the American people, under the control of the senate ; nay ! who had threatened to bring forward a proposition *to do away* that power altogether, were seen arranged on the side of a spurious envoy ; asserting that his conduct, in undertaking such agency, was not only free from blame, but worthy of applause, and maintaining that every individual, who pleased, (and consequently as well as those, who through corruption or infatuation might be prepared to prostrate the honour, and sacrifice the independence of their country to a foreign nation, as others) was authorised to take upon himself the delicate and important powers of embassy,—powers, which, in their nature, are inseparable from the united sovereignty of the nation, represented by their national government. (g.)

It were endless to pursue the inconsistencies of such men : one instance more, of a public nature, during the administration of Mr. ADAMS shall suffice.

In consequence of the refusal of our ministers to place our country in a state of contribution, agreeably to certain demands made upon them, all must recollect the threats of national vengeance and annihilation against our country : preparatory to that, it was also threatened to cut up our trade by cruizers upon our coasts, and thus to levy contributions upon our individual citizens, in default of those de-

(g) See Debates on this subject in the public papers.

manded from the nation at large. Upon the safety of our commerce, and of the means of transport, the productions of agriculture depended for their value : upon that safety depended also the principal source of our revenue, and this revenue was essential to our national safety. Notice of these threats had been scarcely received, before information was also received, not only of distant depredations, not only that hostile cruisers were upon our coasts, but even that they were within the bays and waters exclusively pertaining to the jurisdiction of the United States. Necessity makes its own laws. Our country, however desirous of peace, was thus compelled to prepare for its defence : the nature of the attack prescribed the nature of the means to be used in that defence. A small naval force was resolved upon for this unavoidable, this all-important purpose : but this was not effected without the most serious opposition in the public councils of our country :—when resolved upon, opposition ceased not ; for hopes still remained, that a force, thus furnished, might be rendered ineffectual. A naval force being supplied, the constitution declares, that, “ the President shall be commander in chief ” of that force. An attempt had been made, as before seen, to vary the constitution in this respect, so as to declare, that *the president should have power to direct, agreeable to law, the operations of that force*, and had been rejected with marked contempt, as it deserved. All this mattered not ; a new attempt was made, *to prescribe by law* to “ the commander in chief of the navy of the United States ” the manner in which he should exercise that command :—in fact, to prohibit him from using that naval force for the protection, by way of convoy, of the commerce of the United States, even when that convoy might be afforded consistently with the other objects of the public service. The strange ground of this

Arrange attempt to usurp the guidance of the executive authority in this respect, was no other than the assertion of a doctrine, that to protect the commerce of the citizens of the United States against French depredations would be a violation of the duties of neutrality. (*l*)

Such, sir, has been the conduct, such have been the principles of those whom you affect to consider as the only orthodox in politics, the only patriots and republicans, the only defenders of the constitution and of the purity of its principles ! For an opposition to these attempts at perversion, for asserting that it was the duty of those who had sworn to "support the constitution" to leave to the executive the independent exercise of its official functions, for maintaining that the independent exercise of those functions was essential to the freedom and happiness of our country, the federalists have been heretofore termed by you, sir, and your associates, "*aristocrats, monarchs, and Tories.*" (*i*) They have been lately termed by you, sir, in a transaction made public by your permission, *a political sect*, as if swerving from the principles of orthodoxy in politics. For the independent exercise of the official functions of the executive department by your predecessors in office,

(*l*) See Debates on this subject in the public papers.

(*i*) Here certain anonymous publications might be referred to, which from their gross misrepresentation and calumny could scarcely be admitted, unless upon the most conclusive evidence, to have proceeded from a source of any respectability — Means are believed however to exist, sufficient to convince every candid mind of their real source ; but on account of their tenor, as well as the station of their supposed author, a reference is forbore. Were their authenticity established, one inference indeed would conclusively follow to wit, that, it is impossible for power, bought and obtained by such means, to be used to any good or honourable purpose ; but of this, alas ! without the aid of disputable documents there is already too little reason to doubt. The words within inverted commas are authentic.

that department has been heretofore declared by you, sir, “ *too strong* for the republican parts of the constitution ” as if the executive power were not an essential *part* of every government, *republican* as well others ; as if that which is an essential part of republican government were, in its nature, anti-republican. Because the executive department has been reputed by you “ already too strong for the republican parts of the constitution,” is it, therefore, sir, that you, disregarding the examples of your predecessors, are now determined to submit yourself, in the discharge of the functions of that station, to the guidance of those charged with the sovereign functions of legislation ? Is it thus, sir, that you propose to preserve, protect, and defend the constitution ?

The American people have heretofore fondly hoped that their safety and happiness have been objects marked by the peculiar favour and interposition of the Providence of Heaven : and assuredly the past blessings which we have enjoyed, demand our warmest gratitude. May that kind Providence, which has heretofore watched over us, still guard us against the delusions and mischievous consequences of principles now, for the first time, avowedly about to be submitted to experiment in our hitherto happy government !

Accept, Sir, my homage of all due respect.

Your fellow-citizen,

TACITUS.

## LETTER VI.

*To THOMAS JEFFERSON, Esquire, President of the  
United States,*

SIR,

IN my two last letters I took the liberty of reviewing certain transactions of a public nature, which had occurred during the administration of your predecessors: these transactions, taken separately, manifest each a strange disregard for original and constitutional principles—taken together, they evince a spirit of inveterate and systematic hostility to the constitution of the United States, and especially to the barriers established between the legislative and executive departments of the government. To assert that you, sir, were privy to those transactions and a partaker in that hostility, might perhaps seem indecorous in any individual, considering the high station, which you at present occupy: yet if “the diffusion of information and the arraignment of all abuses at the bar of public reason,” (a) be allowable, it cannot be unlawful to recall the public attention to certain evidences, already in the public possession, and to solicit the public consideration of a question, apparently of no small concern—In what light your past conduct ought to cause your present solicitation of guidance to be viewed?

A defender of your political character, at a former period, has asserted “that your conduct had inspired a confidence, that it was never your wish, that your sentiments upon any subject of a public nature should

(a) See Mr. JEFFERSON's inaugural address of 4th of March 1801, appendix No. 14.



be withheld from your countrymen." (b) To a presumption of the continuance of that disposition on your part, the freedom exercised in the present correspondence, may, if you please, sir, be attributed.

If the suggestions and information of Citizen GENET, contained in his letter of September 18, 1793, addressed to you, sir, and published under your own authentication, be not maliciously false, may it not be fairly inferred, that you, sir, had painted to him, those with whom you were apparently acting in concert in the administration of the government, "as aristocrats, partisans of monarchy, partisans of England, of her constitution, and consequently as enemies of the principles" of republicanism?—May it not be fairly inferred, that you, sir, had made Citizen GENET believe that you were his friend and that you had initiated him into mysteries which inflamed his hatred against those whom you had painted as aspiring to an absolute power?

Considering the pretensions of Citizen GENET at that period, can it be in any degree questionable, whether, sir, your principles, as then disclosed to him, by which *you made him believe you were his friend*, and in relation to which WASHINGTON, and all those who honestly concurred with and supported him, were "aristocrats, partisans of monarchy, partisans of England, of her constitution and consequently enemies of the principles" of republicanism, were principles of amity or hostility to the constitution? As well might it be pretended, that it were questionable, whether to speak in one way and act in another; to have an official language and a language confidential, were evidences of duplicity, or of plain dealing. (c)

(b) See the introductory observations to the "defence of Mr. JEFFERSON'S political character" in the National Gazette of September 26, 1792.

(c) See Citizen GENET'S letters of September 18, 1793.

If the information of Citizen FAUCHET, contained in his famous letter of the 31st of October, 1794 (the authenticity of which is established by his subsequent explanations, and by the publication of Mr. RANDOLPH) be in any wise worthy of regard, (and it is presumable that he was not without access to the best sources of information, sec. 16 ) what, sir, may be inferred from thence?—Those who were conscious that our national existence had been originally founded on the union of these States, and that the preservation of our independence and self government still depended on that union, and who therefore were friends to the adoption of the constitution, as the only means of securing those important objects, were styled “*Federalists*.”—Those who were opposed to the adoption of the constitution, and who “*wished to preserve the former system, whose prejudices*” (to use the words of Citizen FAUCHET) “*should cherish at least the memory and the name,*” from the general persuasion that that system, on account of its inefficiency could preserve nothing more than the mere *memory and the name*, were denominated “*Anti-Federalists*.” Upon the adoption of the constitution, those who had been most inveterate in their opposition, became (according to the representation of Citizen FAUCHET) “*malcontents*”:—when the government was put into operation, those “*malcontents*,” uniting with them some unprincipled or disappointed federalists, became “*enemies to the whole system of government.*” At a subsequent period “*in proportion as the nation advanced in the experiment of a form of government which rendered it flourishing,*” it was discovered by those “*enemies of the whole system of government,*” that they had taken the unpopular side of the question,

amongst the documents accompanying a message of General WASHINGTON to Congress, of December 5, 1793 ; appendix No. 3.

and consequently that it was a vain thing for them, under that denomination, to attempt directly to overthrow the object of their enmity. That enmity was therefore to be disguised under the appearance of dissatisfaction at the measures of administration, whilst those under its influence were to attempt to put off their ancient denomination, and to assume that of “ friends of the constitution and enemies only of the excrescencies which financiering theories threatened to attach to it.” The good sense of the people, (under the denomination of the federal party) at that period, frowned upon the surreptitious attempt, and “ *obstinately persisted* (says Citizen FAUCHET) *in leaving to its adversaries the suspicious name of ANTI-FEDERALIST.*”—“ *The anti federalists*” mortified at this rebuff, after having passed through the various states of “ *malcontents*,” and “ *enemies to the whole system of government*,” at length, to use the words Citizen FAUCHET “ *disembarrass themselves of an insignificant denomination and take that of patriots and republicans.*”

“ Thus grubs obscene are turned to painted butterflies.”

With the means of deception attached to these new names, it seems not to have escaped the immediate sagacity of some, that “ a revolution or a civil war” (sec. 13) those ordinary occurrences *on the tempestuous sea of liberty*, might be brought about at a period not far distant. Affairs indeed seem to have been arranged in order for immediate progression, and they doubtless would have proceeded to “ a general explosion, for some time prepared in the public mind,” had not “ the local and precipitate eruption (of the Western insurrection) *caused it to miscarry, or at least checked it for a long time.*”—You, sir, are stated by Citizen FAUCHET “ *to have foreseen these crises.*”—On you, sir, ~~those~~ *patriots and republicans*, who had previously passed through all the changes of a political

chrysalis, (*anti-federalists, malcontents, and enemies to the whole system of government*) are stated to have “cast their eyes to succeed the President,” the great and good WASHINGTON upon his expected retirement.—You, sir, are stated at the same time “prudently to have retired in order to avoid making a figure against your inclination in scenes, the secret of which will soon or late be brought to light.”

Was it, sir, from a knowledge of your approbation of measures, which had continued the government, (according to your own precious confession,) “in the full tide of successful experiment, and so far kept us free and firm,” that those patriots and republicans were induced to cast their eyes on you to succeed to your present high station? Or was it, sir, in order to evince your attachment to the government, “the world’s best hope,” and to prove your conviction that it “wants not energy to preserve itself,” (*d*) that “*you prudently retired*,” at such a crisis? Alas! what can be the scenes, the secret of which is now about to be brought to light? Can it be, that you feared your concurrence in enforcing the just authority of government at that *crisis*, might be adduced as an evidence of principles inconsistent with conduct to be observed in other scenes, at other crises, when the people were to be flattered with ideas of *individual sovereignty* and *personal self-government*, till they should be swindled out of every idea of a government of laws, and find their rights and liberties so securely deposited with a government of men, as to be inaccessible even to their own individual sovereignties?—(*c*)

If the letter addressed to MAZZEI (represented in its original publication to have been written, sir, by

(*d*) See the inaugural address of March 4, 1801; appendix, No. 14.

(*e*) See Citizen FAUCHET’s intercepted letter of December 31, 1791, in Mr. Randolph’s vindication; appendix, No. 4.

you, and since averred, on various occasions, by your intimate and confidential friends, to have proceeded from your pen) be authentic, what may not be inferred from your secret sentiments there laid bare to view? The hostility of the writer of that letter, whoever he may be, was not confined to the individuals by whom the government was then administered, or to the principles which prevailed in the measures of their administration: his hostility clearly extended to the constitution itself. Whilst “the executive, the judiciary, and all the officers of government,” were represented, some of them as “*Solomons in council and Sampsons in combat, but whose hair had been cut off by the whore of England*,” and all of them as “*Apostates*,”—and whilst the principles of the administration were represented as calculated to “impose on us the substance of the British government, and to assimilate us to the British model in its corrupt parts,” the constitution itself was also stigmatized with being “the form of the British government,”—it was contemptuously styled, though now “the strongest government upon earth,” (f) Lilliputian ties by which we were bound in the first slumbers that succeeded our labours.” “It is sufficient that we guard ourselves, and that we break the Lilliputian ties.” When? Doubtless when the people, blinded by misrepresentation and passion, shall be roused, like SAMPSON of old, “to appear in all the majesty of their strength, (g) and to pull down ruin on their own heads, whilst they are affording sport to some plausible, unprincipled, designing, and ambitious demagogue, perhaps at the

(f) See the inaugural address of March 4, 1801; appendix, No. 14.

(g) See “Address of the general assembly to the people of the commonwealth of Virginia” of January 23, 1799.

same time "the dupe or the tool of foreign influence." (*b*)

If a letter bearing date at Montecello, September the 4th, 1800, and addressed, sir, under your name, to a citizen of Berkeley county in Virginia, be authentic (and the manner of its publication seems to preclude all question upon that point) what are the inferences plainly deducible from thence? The writer of that letter, whoever he be, by a singular perversion of language and abuse of terms, has affected to consider the executive department of the republican government of the United States as "*the monarchical branch*," whilst he compliments the legislature, or perhaps the house of representatives alone, with the denomination of "*the republican branch of our government*." Instead of endeavouring to harmonize the essential parts of our republican system with one another, so that each might go on without collision in its appropriate sphere, he has affected to consider them as in a state of natural warfare, in which the preponderance of the one or the other must necessarily prevail. The preponderance of the legislative over the executive department, and not a balance or equipoise of the whole, he considers as the only means of "so guarding the rights of the people as to be safe in any hands, and not to depend on the personal disposition of the depositary." And you, sir, if you be the author of that letter, avow it to be "the greatest of all human consolations to you to be considered, by the republican portion of your fellow-citizens, as the safe depositary of their rights." Whence this declaration of your satisfaction, bearing in it an illiberal calumny against all who dared to think their rights might be more safely entrusted with another depositary.

(*b*) See the letter to MAZZEI; appendix, No. 5, and see the cautions of WASHINGTON in his farewell address, against national antipathies and attachments, and against foreign influence.

tary? Whence this extraordinary consolation in the prospect of being raised to a station rendered odious, as far as may be, by your own representations of its being essentially monarchical? Was your consolation heightened by the idea of having it in your power to render contemptible, by a submission to guidance that which you had before rendered odious by misrepresentation? When rendered both odious and contemptible, is it possible that you could find consolation in the idea of putting off the character of a depositary of authority for the preservation of the rights of all under the constitution, and of being invested with the character of the safe depositary of the rights of the republican portion of your fellow-citizens, independently of the constitution? (i) Was it with a view to such a state of things, perhaps long since in distant perspective, that you commenced your sympathetic rantings for *the European labourer, who goes supperless to bed, and moistens his bread with the sweat of his brows*? (k) Is it with a view to such a state of things, perhaps now in nearer perspective, that congratulations are offered at one time, that “unoccupied soil will still offer itself to those who wish to reap for themselves what themselves have sown?” (l) that a strong anxiety is expressed at another time, that “government shall not take from the mouth of labour the bread it has earned,” and “that labour may be lightly burthened?” (m) And again, at the present time, when a national debt is to be

(i) See a “copy of Mr. JEFFERSON’s letter in reply to one addressed to him by a citizen of Berkeley,” taken “from the Richmond Examiner,”—in the Washington Federalist of February 6, 1801, and appendix, No. 6.

(k) See Notes on Virginia, query 22d and reply.

(l) See letter to a citizen of Berkeley; appendix, No. 6.

(m) See inaugural address of March 4, 1801; appendix, No.

avowedly cherished as a national blessing ; when taxes are to be discontinued, lest the continuance of that national blessing should be terminated at a period earlier than was expected, and the resources of our country should be left free to be employed against any enterprizes threatening our independence and self government (such, for instance as an attempt to carry into effect a proposition for “ the respective naturalization of French and American citizens”) (n) and lest we, in the wantonness of exemption from the public blessing of a public debt, should imprudently provoke wars in the present pacific and unambitious state of the world—is it, I say, at such a time, that with a view to such a state of things, we now find sentiments such as the following brought forward ?

“ Considering the general tendency to multiply offices and dependencies, and to increase expense to the ultimate term of burthen which the citizens can bear, it behoves us to avail ourselves of every occasion which presents itself, for taking off the surcharge ; that it never may be seen here, that, after leaving to labour the smallest portion of its earnings on which it can subsist, government shall itself consume the residue of what it was instituted to guard.”

Is it possible, sir, whatever may be your vanity, that you can have the confidence to suppose, that your

(n) “ Mais la naturalisation respective des citoyens François et Américains, proposée par Jefferson et désirée par la nation Française, facilitera cette stipulation d’une exemption réciproque de tonnage, et la rendra moins offensante pour les puissances qui, en vertu de leurs traités, pourraient réclamer la participation aux mêmes avantages. Puisque, *casus fœderis* se trouverait par cette stipulation, changée à cet égard.”—*Extract des instructions données par le gouvernement François au Citoyen Adet.*

The honour of our country forbids a translation of the above. See however General WASHINGTON’S message to Congress of January 19, 1797, and the accompanying documents, No. 114, and 116 ; appendix, No. 7.



charity and compassion for the poor are really superior to those of other men, who, knowing by experience *untried by you*, the sweetness which may be given to bread by the labour of earning it, have imparted of their little to the poor, and left the account to Heaven, without making their sympathy a subject of continual boasting before the world? Is it possible that your vanity and ambition have so far blinded you, as to induce you to suppose, that the American people are also so blind as not to be capable of seeing through pretensions so gross and designs so palpable? As well might it be pretended, that the designs of a nation could not be comprehended, when it should proclaim war against the governors and peace to the governed; war against palaces and peace to cottages; desolation against property and peace, nay, wealth to poverty!

But however these things may be, is it possible that any man, after reviewing with any tolerable degree of attention the foregoing evidences, can entertain a doubt concerning your disposition, whether it be that of amity or hostility to the principles of the constitution; that he can be at a loss to estimate the import of your inaugural address generally; or that he can suppose an undue importance has been attached to that passage of your address before particularly cited and commented on?

If then to look with encouragement for guidance, in the executive functions of your station, to those charged with the sovereign functions of legislation, be equivalent to a proffered surrender of your constitutional independence, and if that surrender necessarily operates the destruction of the barriers and checks explicitly established by the constitution, and concentrates the executive with the legislative powers of the government in the same hands, or at least in such manner as to destroy the constitutional responsi-

bility of the executive, nothing more remains to be done, to complete the present undertaking, but to ascertain the tendency of that concentration and to demonstrate your knowledge of that tendency.

The natural provinces of legislative and executive power are essentially distinct: it has therefore long been a received axiom in politics, that those powers, in order that they should be exercised with safety and convenience, for the liberty and happiness of the members of every society, should be delegated to different bodies or departments. It is believed that it may be added with equal correctness, that, for that beneficial exercise, those powers ought to be delegated, not only to different bodies, but also to bodies differently constituted.

The objects of legislative power (over and beyond that science, prudence, and integrity which ought to adorn the magistracy in every department of government) require, in the members of that department, information, both of a general and local nature, relative to the interests and affairs of the society and of its different parts. These requisites are judiciously sought for by the constitution of the United States, in a house of representatives, consisting of the chosen representatives of the people from all parts of the union, and in a senate, consisting of the chosen representatives of the states in their corporate capacities. It is also requisite that the legislative department should be so constituted, as to render deliberation an essential ingredient in all its proceedings. That deliberation is therefore sought for in certain forms which the good sense of those bodies may respectively prescribe to them, in the constitutional necessity of a separate concurrence of each of those branches in every act of legislation, and in the constitutional control of the executive by means of a modified negative, the effect of which is merely to compel the

branches of the legislature, in all cases of doubtful expediency, to reconsider each its own decision, or, in other words, to deliberate again.

The objects of executive power, (over and beyond the general requisites before stated) seem to require harmony in deliberation and decision, unity in design, promptness in proceeding, and energy in execution. The constitution of the United States has accordingly sought the beneficial attainment of the objects of executive power, by delegating that trust to one individual solely, the president of the United States; contemplating, at the same time, the aid of competent assistants in the heads of the auxiliary departments, of his own original selection, removable at his sole will and pleasure, and in case of vacancy, to be supplied again by a choice originating solely with himself. Thus, aided by counsellors and agents of his own selection, subject only to the rejection of the senate, and supported by the legislature with the means necessary and proper to enable him to carry into execution the powers vested in him by the constitution, a president of the United States, without further guidance (it seems to have been expected) was to be competent to the discharge of the duties of his station. In case of failure, a serious consideration seems to await the man who shall have presumptuously accepted the charge of that station. Over and beyond the public dissatisfaction, it is expressly provided by the constitution, that the house of representatives may impeach, and that the senate shall hear and determine: a power, doubtless, to be exercised with great discretion, and with reasonable allowance for the frailties and weaknesses of men: a duty, however, when necessary, assuredly not to be declined, but to be discharged by full performance, under high responsibility for the greatest and best interests our country.

My present letter being of sufficient length, I must delay further proceeding till my next. Accept, in the mean time, Sir, my homage of all due respect and consideration.

Your fellow-citizen,

TACITUS.

## LETTER VII.

To THOMAS JEFFERSON, *Esquire, President of the United States.*

SIR,

IF the view before taken of the legislative and executive powers of the government upon both original and constitutional principles, be in a tolerable degree correct, what must be the effect of concentrating those powers, either by the executive voluntarily placing itself under *the guidance* of the legislature, or by an unprincipled usurpation of executive powers on the part of the legislature? This, sir, is the enquiry now before us. Whatever may be the mode of concentration, our inquiry need in no wise be varied, since the result will necessarily be the same:—whatever may be done under the authority of the governor, whether of a legislative or executive kind, must, under such a state of things, proceed from the sole authority of the legislative department, notwithstanding the nominal existence of a visible executive.

I take it for a truth sufficiently obvious, that *the guidance* of one directory so numerous as either of the branches of the legislature of the United States must inevitably destroy all harmony in deliberation and de-

cision and all unity in design, and consequently all promptness in proceeding and energy in execution, in all measures of an executive nature. If such be the effect of *the guidance* of one such directory, it is believed that it may be assumed as equally true, that *the guidance* of two such directorial bodies, at the same time, must inevitably embarrass and ultimately destroy every thing like moderation and regular movement in the government.

The objects of executive power are not of a nature to be held in partnership or jointenancy by different bodies, or even by different members of the same body. Whoever has given any tolerable attention to the course of the affairs of government in our own country, where a disposition to concentrate legislative and executive powers had heretofore advanced no farther than to some abortive attempts at usurpation, cannot have failed to remark the strange effects, which have become visible immediately upon the introduction of subjects of an executive nature into the discussions of a numerous legislative body. In the same assembly of men, who a little before seemed capable of discussing questions, *bona fide*, of a legislative kind with candour, with moderation, with mutual deference and respect for the characters and sentiments of each other and with an apparent general desire to arrive at wise and just results : no sooner has a question of an executive nature been introduced, than it seems to have been converted into a brand of discord, cast amongst them to kindle a flame. To this source, it is believed (from observations made at the moment on various occasions and from subsequent reflexion) the unfortunate violence of party passions, which at present divide the people of America, is to be attributed, more than to any other cause. This effect produced by such cause may have escaped the notice of some ; but to you, sir, who I am persuaded look with ob-

servant eyes, it cannot have remained unknown. If such be the case, (all other considerations apart) how cruel is it, whilst you profess to be desirous of *restoring to social intercourse that harmony and affection, without which liberty and even life itself are but dreary things*, knowingly to furnish to the flame already kindled an inexhaustible supply of fuel, by subjecting at once the whole of your executive functions to the guidance of the legislature?

The different degrees of violence in the passions excited in discussions upon subjects of a legislative or executive nature, are easily to be accounted for from the difference of principles that operate in legislative and executive deliberation. Those of the former kind, relating principally to general provisions and regulations, adopted for future, distant, sometimes indistinct and uncertain events, like questions in the abstract, interest the passions in so slight a degree as to leave the operations of reason full and free exercise. Those of the latter kind, relating to immediate and specific objects, and these not unfrequently of great magnitude, to be acted upon, as well as to be deliberated upon, from these circumstances, interest the passions to such degree, as to render uncertain the operations of reason, even where no collision with the opinions of others intervenes. But if that collision, from a defective organization of government, or otherwise, unfortunately takes place, the passions of those engaged in the executive contest blaze forth, and unless checked by singular prudence or some fortunate incident, soon prepare the way for all the changes of discord, which either wisdom has predicted, or experience verified, till the catastrophe is closed by a stern and gloomy despotism.—(a)

(a) *Nulla fides regni sociis, omnisque protestas*

“*Impatiens consortis erit.*”

LUCAN.

The house of representatives, therefore, and the senate, could not long continue joint possessors of the executive power, however quietly yielded by its constitutional occupant : contention must arise in the nature of things, nor could it ever subside, but by the compleat demolition or reduction of the one or the other of those bodies—not in relation to executive power alone, but in relation to legislative also ; since every the smallest remnant of rival power, with which such a contest has once existed, is forever after viewed as a germ, from which that contest may spring up anew. The destruction, therefore, of the existence or authority of the one or the other of the branches of the present legislative department of the government of the United States would soon be the consequence of an accumulation of power by the addition of *the guidance* of the executive. The judiciary, should it, on any occasion, dare to doubt the justice or constitutionality of the measures of the remaining body, would immediately experience a similar fate. One department or branch of a department, thus uniting all powers, would then be seen to experience convulsive throes within itself, arising from the struggles of its individual members for ascendancy : the result need not be traced further. Such seems to be the natural course of the effects, necessarily proceeding from a concentration of the legislative and executive powers in the hands of the legislature, considered with regard to the government itself apart from the people. But amidst these tumultuary shocks of the government, the people could not remain at peace : the chart of our

“ No faith of partnership dominion owns ;  
 “ Still discord hovers o’er divided thrones.”

Nothing can be more true than the above, in relation to executive power. France at present has her three Consuls ; but what are two of them ? Not so much as the Countryman’s Nightingale.—“ Vex et preterea nihil.”

constitution being gone, what hopes would remain of recovering our former station of peace and order? Let us therefore endeavour to trace, with regard to the people, the effects of this concentration of powers, the consequence, sir, of your “looking with encouragement for guidance to those charged with the sovereign functions of legislation”

The wisdom of MONTESQUIEU and “the friendly and disinterested warnings” of WASHINGTON, “the result (as he assured us) of much reflexion, of no inconsiderable observation and which appeared to him all important to the permanency of our felicity as a people,” may perhaps have become obsolete with some: with such, however, it is hoped the warnings of experience, offered to our consideration by events which have recently taken place upon a theatre, to which the eyes of all *the exclusive patriots and republicans* of our country have been turned, cannot fail to make a due impression. Monsieur NECKER, the favorite and popular minister of France at the commencement of her late series of revolutions, has furnished us with some important instruction on this head. By his advice, it is said, if I mistake not, (and you, sir, can correct my error, if I be in one, since you were not only upon the spot, but possibly may be not without some knowledge of *the secret advisers* of that advice) it was, that in the convocation of the states general, a double representation was allowed to the *tiers etat*. A rat-hole in a dyke, at some period, I have not time to ascertain when, is said to have occasioned the overflowing of a great portion of the United Netherlands:—“*Obsta principiis*” is a maxim of acknowledged merit in medicine and morals, and without question might for some time past, and even yet, be applied with advantage in politics. The above incident of the double representation in the *tiers etat*, trifling as it may seem, sir, compared with your



proposition for subjecting the executive functions of your station to legislative guidance ; and immaterial, as it is admitted, it would have been, had the different orders of the states general pursued their deliberations in distinct chambers, or bodies, became a flood-gate, by which an inundation of evils was poured in upon France and the surrounding nations, such as the records of history can scarcely furnish a parallel to. By this duplication of their numbers, confidence seems to have been given to the *tiers etat* : they were consequently inspired with a desire of making an experiment upon the innovating principles advocated by Monsieur TURGOT, and so zealously opposed by Mr. ADAMS, to wit, *the collection of all authority into one centre*, instead of having a government composed of departments, legislative, executive and judicial—the legislative moreover being composed of different branches or orders, and controllable by a negative in the executive. Their first attempt, therefore, was to abolish the distinction, which had immemorially existed between the nobility, the clergy, and the *tiers etat*, and to reduce the whole into one consolidated assembly, in which, from their *increased numbers*, it was obvious the *tiers etat* would alone have the direction of every thing. The attempt was ultimately carried into effect by the most unjustifiable means—threats and terror. A national convention was formed, by melting down the states general into one mass, and being so formed was pleased to consider itself a constituent assembly and proceeded to the formation of a constitution for the nation. This was at length completed upon the same principles which gave rise to the formation of the convention or constituent assembly itself ; and the government under that constitution was put into motion. Monsieur NECKER, who has been accused (b) of insidiously and artfully draw-

(b) See Debrett's collection of state papers, vol. 1, page 38, & 57.

ing up the orders, by which the representation of the *tiers etat* was doubled and by which the sovereign authority was alleged to be endangered ; but who, from his subsequent conduct, seems to have been innocent of every thing like evil design, and to have been justly chargeable only with too great facility in yielding to a spirit of innovation under the idea of reform, or to the insidious suggestions of others, was amongst the most observant spectators of the consequences which followed from this system. In a work written by him as early as the year 1792, entitled “An Essay on the true principles of Executive power, &c.”—(a work, worthy of the consideration of politicians at all times, and of every American at the present time) amongst many other valuable suggestions he furnishes us with the following.

“There exists, no doubt,” says he, “in the book of the constitution, two powers entirely distinct ; but the want of proportion in their respective strength must inevitably lead to confusion : and this want of proportion became inevitable, when our law-givers (the constituent assembly) as I have shewn in the beginning of this work, had so long forgotten both the executive power and the rank it ought to assume in the forming of the constitutional articles.

“It is however a maxim, become almost proverbial, that *the union of powers is an attack on the principles of liberty*. It is indeed often repeated in a thoughtless manner by those who can give no reason for what they say : but I will not repeat that which all intelligent men already know. I will only remark, that *the chief objection made against the old form of government, related to an union of powers* which centered in the monarch ; yet the obstacles he had to encounter, in the inconsiderate exercise of these various powers, were public opinion, the prevalence of manners, the opposition of parliaments, the rights of

provinces, and for some time past, the well founded resistance of provincial administrations. No doubt the immoderate power of an assembly, composed of national representatives, is not so formidable as the despotism of an individual; but it has inconveniencies peculiar to itself, and which ought to be peculiarly felt by certain characters.

“ A numerous assembly, when it exercises the executive power, can never act by insensible advances; all that is mild, indulgent, or accommodating to the frailties of men will ever appear to it effeminate; and if that assembly be composed of legislators, their habitual course of thought will bring them back to general and decided principles. This spirit is most conspicuous in such an administration, in the mode and rigour of its punishments. A collective assembly, obliged to renounce that foresight which prevents faults, that penetration which discovers their origin, that mixture of indulgence and firmness which is better adapted to men than to theory and that prudence which artfully wrestles with difficulties; such an assembly, unacquainted, by its legislative capacity, with that temporizing and accommodation which are so often necessary in executive administration, (c) is continually obliged to exhibit itself with the exterminating sword: yet the union of severity and power, though it may not be despotism, presents so lively an image of it, that noble minds sometimes find it difficult to support the spectacle.

“ In fine, we may be assured that a legislative assembly, whether from the spirit inherent in its functions,

(c) The mixture of indulgence and firmness, the prudence artfully wrestling with difficulties, spoken of by Monsieur NECKER as a temporizing and accommodation with the frailties of men, were happily exemplified in the conduct of the executive in the case of the western insurrection. For a brief representation of that conduct, see General WASHINGTON's address to congress at November 19, 1794.

the abstract character which it insensibly acquires by its habitual examination of general questions, or the simple progress of opinions and sentiments as existing in large bodies of men ; such an assembly, I say, never can conduct with mildness and moderation that part of public business which is understood by the phrase executive administration. It will soon come to hate the temporizing of which it is itself incapable ; and it will then incessantly be told of oaths, of public accusers, high national courts, responsible ministers, dismissal from office, death or ignominious punishment, and every other invention of revenge. All the stores of tyranny are displayed to its view, to which it finds itself obliged to have recourse, not from the love of despotism, but to provide itself with the only instruments it can employ, when it quits its legislative functions to seize on those of executive administration. Yet benevolence and wisdom are equally offended by this proceeding ; and that freedom of sentiment, which ought to reign in all hearts, is often obliged to be sacrificed to an ideal freedom, which, having no central point, fills an indefinite space in the fantastic declamations of orators and writers of romance.

*“ There is no real, or at least no certain freedom, if there exist in the state an authority without counterpoise : and what power can be the counterpoise to the power of an assembly which combines in itself, not only every legislative right, but every dominion it shall please to assume, as well OVER JUDICIARY FUNCTIONS as over external and internal administration ? What power can be a counterpoise to the independence of an assembly which, avoiding only those few faults calculated to excite public inquiry, finds itself superior to censure, and which, by continually calling the attention to new objects, suffers it not to turn on the oppressed man for more than a day, and seems to stifle, by beat of drum, his murmurs and complaints. In fine, what*

*limit can be fixed to the daring of an assembly which being renewed every two years, and having accomplished unrestrained its momentary reign, far from being subject to any responsibility, suddenly disappears from the scene and, like lightening, disperses itself in invisible particles?*

“ Who but must be terrified at the authority of an assembly which, in a moment and without appeal, decides on the honour, the fortune, and the freedom of citizens; and which, proscribing by a small majority of votes an inquiry into all opinions presupposed contrary to the sentiments of this majority, thus secures, by its tyranny over the minds, its despotism over the persons of men? Who but must dread the authority of an assembly, which, on the report of one of its members, and without deigning to hear the accused or their advocates, fills the prisons with its victims? Who will not dread the authority of an assembly, ever ready to obey popular opinions, and which afterwards employs these very opinions to force the compliance of the monarch, and thus to break down the feeble mound which the constitution had raised to the omnipotence of the legislative body? In fine, who but must dread the unbounded authority of a collective being, which, passing in a twinkling from a living to an abstract nature, has no need of compassion, nor any fear for itself, either of censure or condemnation? If a country can be called free, which is under the yoke of a power so absolute, in which security of person, respect for property, and the maintenance of the public tranquillity depend on the tongue of an orator, and on the moment which he may artfully chuse for gaining votes; if a country can be called free, in which no balance of authority exists; where the executive power is a vain sound; where rights are all imaginary; where the opinions of the wise are no longer listened to, religion is impotent,

and manners are lawless. If a government thus composed can be called free, there is an end to all ideas of the first principles of social organization." (*d*)

The applicability of the foregoing observations of Monsieur NECKER, concerning the dangers which inevitably result from the concentration of legislative and executive powers in the hands of a legislative assembly, to your proposition, sir, of looking with encouragement for guidance to those charged with the sovereign functions of legislation, is too singular not to strike the attention of the most heedless observer. Without any comment of my own, therefore, upon what has been already offered, I shall proceed, sir, to add some few more of the observations of Monsieur NECKER, concerning the apprehensions entertained by the more sober and thinking inhabitants of France and of foreign countries, upon the political phænomena which then presented themselves, in the affairs of that country. These observations manifest also his own melancholy anticipations of the evils which he then dreaded as impending over France, in consequence of her departure from well established maxims of policy, by "overthrowing the balance of government—a balance," says he "the most important object of whose institution is the support of liberty itself." They shew, at the same time, an amiable anxiety to vindicate the honour of the nation against the general imputation in which it seemed to be involved, by the ignorance, the weakness, the metaphysical dogmatizing disposition, the vanity, the exaggerations, and the mischievous pursuits of popularity and power, of those whom the nation had entrusted with the management of its affairs. "Mistrust," says Monsieur NECKER, "had long taken

(*d*) See Chap. 17. "*Of Executive Power as connected with Liberty.*"

possession of the sober and thinking inhabitants of France, before foreigners would allow themselves to harbour it. It was not till after long resistance that foreigners abandoned us ; it was by a sort of constraint that they withdrew from us their attachment ; and they felt a deep and lively sorrow, when they saw their wishes frustrated and their hopes vanish. Their interest diminished and their hearts were alienated, when they beheld the progressive increase of disorders ; when they beheld the continual abasement of all regular authority, and the sacred maxims of liberty converted into a pretext for every species of tyranny. Their interest diminished and their hearts were alienated, when they saw the people blinded by the hypocritical adulation of those who aspired to govern in their name ; when they saw, in the legislative body, the timid imbecility of virtue and the daring insolence of vice ; when they saw the base complaisance of a national assembly towards men whose characters were so far tarnished, that they would not have been permitted, according to the laws of the ancient republics, to offer a proposition, however useful, to the public adoption. But above all did foreigners shrink from us with terror, when they heard the story of successive deeds of injustice, barbarity, and cruelty ; and when, as it too often happened, no man but themselves lent an ear to the distressful cries of the victims. The generous and the virtuous of every country abandoned also the cause of the French nation, when they witnessed its ingratitude towards a monarch whom that very nation had described in its fasti, by the glorious appellation of *The Restorer of Freedom* ; when they saw the shameful pleasure that was taken in idly wounding the heart of the best of princes, and that he was subjected, in the hour of adversity and in his retirement, to the vile and dastardly insults of the most

contemptible of beings, who, a little before, and while the shadow of power remained, had servilely cringed and licked the dust beneath his feet. In fine, all nations despaired of us, when they saw morality and religion rendered the laughing stock of our politicians ; when they observed the presumptuous hopes of that criminal philosophy which, having thrown aside the mask, pretended to substitute its frigid lessons for the balm of piety and the inspired communications which Heaven had adapted to our weakness. At length alas ! the prosperity of France is no longer so much as hoped for, and they are her best friends that abandon themselves to the most melancholy presages.— They perceive *the arrival of the last term of illusion* ; they see the moment approach, when the bitterest tears will be shed over the rich harvest which has been suffered to perish, when the least prudential effort might have saved it. You who have accomplished all this, with what remorse ought you not to be stung ! It is not your country only, it is all Europe that demands an account of that liberty, of which fortune had rendered you the guardians ; of that liberty, which, if sagaciously directed, would have captivated the affections of the whole universe, but which in your unskilful hands, is become an instrument of fear and a signal of terror. Blind and wretched guides of a nation deserving of a better lot, you have sacrificed even her renown ! Could you for a moment, but quit the narrow cell in which your vanity has inclosed you ; could you but hear what is now said of a people whom you have misled, your remorse would be eternal. \*\*\*\*\* Meanwhile it would be unjust to impute to the natural inclinations of the French people, wrongs that belong to a political constitution, in which art seems to have been exhausted in order to introduce anarchy and the relaxation of every social tie.”



“ There is not a people upon the face of the earth whose manners would not be totally changed if they were suddenly carried back to the state of natural liberty, or if they were merely brought near to it by unnerving the authorities destined to guard the public order. Envy, jealousy, nay ! the mere aversion excited by the unequal distribution of property—(sentiments that are at present contained within bounds by the power of the laws) would then present the most terrible spectacle, since liberty would become the ally of all the passions that instigate us to the abuse of liberty. The barriers that divide the savage from the civilised state, are much stronger in appearance than they are in reality ; they were erected many ages ago, and their very antiquity offers itself to our imagination as an index of their indestructibility.—Meanwhile, in sober reality, a few simple moral principles, constitute these barriers, and one or two of these principles, pushed to an extremity, would suffice to unite the spirit of independence and the spirit of tyranny, the equality of the early with the corruption of the later ages of history. A slight inattention to the executive power, in the structure of a political constitution, may bring on this catastrophe and present us with the archetype of that cloud, no bigger than a man’s hand, which, appearing in the midst of a blue and brilliant atmosphere, terrifies the experienced navigator, and which at first almost an imperceptible point, blackens by degrees the prospect, and prognosticates the bursting of a terrible storm.” (e)

(e) See the introduction to Monsieur NECKER’s work. This performance, which is, in fact, a comment upon the first French constitution, throws great light upon the transactions, which occurred in the early part of the French revolution : the copy used was itself printed in the year 1792. The sentiments and manners prevalent at that period are continually cited and appealed to, for the purposes of illustration or corroboration.—

Sir, I may perhaps be troublesome to you by the length of my quotations ; but if they shall awaken reflexion in your breast—or failing there, shall rouse the vigilance of my fellow citizens, they will answer the design of the original author, and of his transcriber : they are submitted without comment.

Accept for the present, sir, my homage of all due respect and consideration.

Your fellow-citizen,

TACITUS.

## LETTER VIII.

To THOMAS JEFFERSON, *Esquire, President of the United States.*

SIR,

IN my last letter I took the liberty of making considerable extracts from the valuable work of Monsieur NECKER on executive power. These I submitted without comment, presuming that their import could not fail to attract attention. The first division of those extracts presents us with the reasoning and ideas of Monsieur NECKER, in part, upon the subject of the concentration of legislative and executive powers. The

Monsieur NECKER's opportunities for information and observation, and his capacity to make the best advantage of those opportunities, cannot be questioned : his candour and truth in the representations made by him, (when we consider the time and circumstances of the publication, addressed, as it were, to those, whose sentiments and manners were painted) seem to be as little questionable. Hence a degree of credit may be yielded without hazard to his representations, which prudence would scarcely tolerate with regard to the representations of most other writers.

second division exhibits some of his melancholy presages of the terrible calamities, which impended over France, in consequence of the subversion of the former powers of government, and the total want of balance in the substituted system. The horrid and bloody events, which shortly afterwards took place in that country, realised, but too strictly, his anticipations: from their recency, they need not a particular recital. A brief view of the distressful state, into which that want of balance threw the nation, is strongly represented in a report made to and accepted by, the French convention itself, on the 22d day of December, 1794, in the name of its five principal committees, amongst whom the affairs of the administration were distributed, in consequence of the incapacity of that body to discharge immediately, of itself those duties. "Hitherto (said the Reporter, JOHANNOT) our government has been a prey to all the passions, which have reigned by turns, by means more or less violent, and under forms more or less popular. Let us be persuaded, and let us proclaim it openly—it is to that perpetual change, that all our evils are owing. Our republican annals do not yet include three years, and by the multiplicity of events, twenty centuries appear required to contain them. Revolutions have followed revolutions; men, things, events, and ideas, all have changed; every thing changes yet; and in this continual ebb and flow of opposite movements, in vain would the government pretend to that confidence, which can only be the result of a steady and wise conduct, and a constant attachment to principles." (a)

The foregoing description of the convulsive and revolutionary state into which the French nation was

(a) See an extract from this report in Mr. RANDOLPH's letter of June 11th, 1795, to Mr. MONROE, in the appendix to Mr. MONROE's View, page 243. See also DEBRET's collection, vol. 2, page 235.

thrown, considering the source from whence it comes, though like the description of the cliffs of Dover, it even in contemplation seems to render our mental vision *dizzy*, yet cannot be suspected of being erroneous, or overcharged : it is the representation of the authors themselves, in great part of that state, when they came to be stricken with astonishment at the result of their own work. Such in fact was, and such in reason seems inevitably to be, the consequence of an unbalanced government, whether the want of that balance proceed from an organization originally defective in the distribution of power—or whether under an organization originally correct, it proceed from an evasion or subversion of the checks and barriers established to keep separate and distinct the operations of the great departments of power, through unfaithful surrender on the one hand, or unprincipled usurpation on the other.

Amongst the evils resulting from such a state of things, are to be reckoned not only the atrocities of the passing scenes, but an unavoidable general depravation of manners and perversion of ideas, springing from the worst passions of our nature, stimulated to a degree of madness, and turned loose by the licentiousness of anarchy. Whilst those atrocities render unhappy, in the extreme, the existing state ; that depravation of manners and perversion of ideas render hopeless a return to any thing like “ the benign influence of good laws under a free government.” —Not peace, but barely cessation from convulsions, is all that can be hoped for, and that too from the sternest military despotism.

In order to remedy the evils, under which France, agreeably to the foregoing masterly picture, laboured in that her unbalanced state, and in order to fix those principles, to which a dear-bought experience had then taught the necessity of a constant attachment, an

effort was made by the formation and adoption of a new constitution. That constitution rejected the visionary ideas of Monsieur TURGOR for collecting all authority into one centre, and sought to establish a government, in which a due distribution of powers might be made amongst different co-ordinate departments. A legislature was formed, not without attention to principles, being divided into two branches ; but in relation to the executive, a most unwise experiment was hazarded, in entrusting the powers of that department to a directory of five members. The history of that part of the revolution, which fell under the directorial government, being of a still more recent date, the less needs particular recital. The unprincipled and violent interference with the rights of election, conceded by the constitution to the people, which immediately took place, and was continually repeated in one form or another ; the discord in the directory itself, and the attendant feuds, which prevailed in the government generally ; the seizure of the aged, the venerable and mild BARTHELEMI, one of the members of the directorial body, and his transportation, together with almost every member of character and respectability in the two legislative councils, to Cayenne ; in order that they might there perish amidst the putrid exhalations of that distant region ; unpitied as unseen, would have been sufficient to characterise that government with its plural executive, had not the tale of CARNOT, another of the members of that body, doomed by his brethern to the poignards of assassins, come in aid, to unfold scenes, to which the whole history of human depravity furnishes nothing equal.—(b)

The dissolution of the Directory, and with it the dissolution of the system, of which it was a constituent part, were effected by the attack of the present

(b) See appendix, No. 12.

Chief Consul ; not indeed solely, since the way for that dissolution had been previously prepared by the tyranny of the directory itself, and by its inherent principles of discord, in consequence of its plurality : the result moreover was doubtless facilitated by the general depravation of manners and perversion of ideas, hostile to government of every form, which had sprung as before stated, from previous disorganization and anarchy.

To characterize the present consular government, which has succeeded, is unnecessary. Suffice it to say, it is substantially that, which every man, whose mind had not been blinded by political infatuation, had long since foreseen, must terminate the anarchial, convulsive, and revolutionary state of France, preparatory to a more settled order of things ; and before even the civilized nations of the world could, with safety, come into general and peaceable contact with that nation. Mr. BURKE, so long since as in the year 1793, speaking of the re-establishment of the affairs of France, falls into the following observations.

“ What support, or what limitations the restored monarchy must have, (said he) may be a doubt ; or how it will pitch and settle at last. But one thing I conceive to be far beyond a doubt—that the settlement cannot be immediate ; but that it must be preceded by some sort of power, equal at least in vigour, vigilance, promptitude and decision, to a military government. For such a preparatory government, no slow-paced, methodical, formal, lawyer-like system ; still less that of a shewy, superficial, trifling, intriguing court, guided by cabals of ladies, or of men like ladies ; least of all, a philosophic, theoretic, disputatious school of sophistry. None of these ever will, or ever can, lay the foundations of an order that can last. Whoever claims a right by birth to govern there, must find in his breast, or must conjure up in

it, an energy not to be expected, perhaps not always to be wished for, in well ordered states. The lawful prince must have, in every thing but crime, the character of an usurper. He is gone, if he imagines himself the quiet possessor of a throne. He is to contend for it, as much after an apparent conquest, as before. His task is to win it ; he must leave posterity to enjoy and to adorn it. No velvet cushions for him. He is to be always (I speak nearly to the letter) on horse-back. This opinion is the result of much patient thinking on the subject, which I conceive no event is likely to alter.”—(c)

The present state of France, it seems then, whatever it be, whether it be a state preparatory to the restoration of the ancient order of things, or whether it be the establishment of a new dynasty, is the necessary consequence of the wild, impracticable theories, and innovating spirit, which prevailed in the commencement of her revolution. Her consular government, whatever may be its character, is a portion of that consequence. The result, we find, was long since substantially anticipated by political sagacity, and has been verified in the event. The connection of each step, in the progress of the drama, from the commencement of the first act to the final catastrophe, is now easy to be traced ; whilst the scenes and their successive changes are yet fresh in memory. Who, after this, can doubt the tendency of a concentration of legislative and executive powers, or the effects of a *plural* executive ?

“ The political liberty of the subject is a tranquillity of mind, (says MONTESQUIEU) arising from an opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted as one man need not be afraid of another.

When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch, or senate, should enact tyrannical laws, to execute them in a tyrannical manner.

“Again, there is no liberty, if the power of judging be not separated from the legislative and executive powers. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with all the violence of an oppressor.

“There would be an end of every thing, (concludes MONTESQUIEU) were the same man, or the same body, whether of the nobles, or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and that of judging the crimes, or differences, of individuals.” (d)

“It is important likewise, (said WASHINGTON) that the habits of thinking, in a free country, should inspire caution in those entrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, (whatever may be the form of government,) a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositaries, and constituting



each the guardian of the public weal, against invasions by the others, has been evinced by experiments ancient and modern: some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them." (e)

If, sir, the wisdom of MONTESQUIEU, and the benevolent warnings of WASHINGTON, have lost any thing of their weight, by the change of times in this new and boasted æra, of your administration; surely the tremendous and awful warnings of revolutionary and consular France ought to be sufficient to awaken to apprehension the mind of the most adventurous innovator, to rouse to feeling the indifference of political apathy, and to heal even the blindness of political infatuation itself.

The wild theories, which prevailed in France, may have originated, and probably did originate in part, in honest, well-meaning error: where such has been the case, however lamentable the consequences, those who best know how difficult it is to impress on mankind the importance of some of the most weighty truths, save by the result of their own experience, will not be backward to yield a generous portion of allowance and sympathy. But who, at the present period, ought to be admitted to set up, by way of palliation or excuse, a plea of ignorance of the tendency of principles, calculated to concentrate the legislative and executive powers of government? If there be, by possibility, any who ought be admitted to such plea; yet, Sir, you of all men must be excluded from that admission. Brought up from your infancy in a country, where the principles of the division of power had acquired the force and authority of fundamental maxims, used and approved by our an-

(e) WASHINGTON's farewell address. See instances cited in five valuable letters lately published by a friend to the constitution.

cestors from time, to the contrary whereof the memory of man runneth not, you had long since (previous to the warnings of revolutionary France) become fully sensible of, and had admitted their importance. In the year 1774 you plainly alluded to these principles, amongst others, when, in speaking of the migrations of the Saxons "from their native wilds and woods in the North of Europe," you were pleased to state that they "had possessed themselves of the island of Britain: then less charged with inhabitants, and had established there that system of laws which has so long been the glory and protection of that country."(*f.*) In the year 1782 you were pleased to test, by these principles, the constitution of your native state: your words upon this subject, though in the hands of most men, are so apposite to my present purpose, that I trust, I shall be excused for inserting them. In reviewing the defects of the constitution of Virginia, you are pleased, under your fourth head or division to use the following observations.

"All the powers of government, legislative, executive, and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation, that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy three despots would surely be as oppressive, as one. Let those who doubt it turn their eyes on the republic of Venice. As little will it avail us, that they are chosen by our ourselves. An elective despotism was not the government we fought for; but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magis-

tracy, as that no one could transcend their legal limits ; without being effectually checked and restrained by the others. For this reason that convention, which passed the ordinance of government, laid its foundation on this basis, that the legislative, executive and judiciary departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time. But no barrier was provided between these several powers. The judiciary and executive members were left dependent on the legislative, for their subsistence in office, and some of them (the members of the executive council) for their continuance in it. If therefore the legislature assumes executive and judiciary powers, no opposition is likely to be made, nor if made, can it be effectual, because in that case they may put their proceedings into the form of an act of assembly, which will render them obligatory on the other branches. They have accordingly, in many instances decided rights, which should have been left to judiciary controversy : and the direction of the executive, during the whole time of their session, is becoming habitual and familiar. And this is done with no ill intention. The views of the present members (in 1782) are perfectly upright. When they are led out of their regular province, it is by art in others, and inadvertence in themselves. And this will probably be the case for some time to come. But it will not be a very long time. Mankind soon learn to make interested uses of every right and power, which they possess, or may assume. The public money and public liberty, intended to have been deposited with three branches of magistracy, but found inadvertently to be in the hands of one only, will soon be discovered to be sources of wealth and dominion to those who hold them ; distinguished too by this tempting circumstance, that they are the instrument, as well as the object of acquisition. With money we will get

men, said CÆSAR, and with men we will get money. Nor should our assembly be deluded by the integrity of their own purposes, and conclude that these unlimited powers will never be abused, because themselves are not disposed to abuse them. They should look forward to a time, and that not a distant one, when corruption in this, as in the country from which we derive our origin, will have seized the heads of government, and be spread by them through the body of the people; when they will purchase the voices of the people, and make them pay the price. Human nature is the same on every side of the Atlantic, and will be alike influenced by the same causes. The time to guard against corruption and tyranny, is before they shall have gotten hold on us. It is better to keep the wolf out of the fold, than to trust to drawing his teeth and talons after he shall have entered."

Under your sixth head or division, you are pleased to state amongst other things, that "in December 1776, our circumstances being much distressed, it was proposed in the house of delegates to create a dictator, invested with every power legislative, executive, and judiciary, civil and military, of life and of death, over our persons and over our properties: and in June 1781, again under calamity, the same proposition was repeated, and wanted a few votes only of being passed." And near the close of that article, you are pleased to observe, "searching for the foundations of this proposition, (for creating a dictator) I can find none, which may pretend a colour of right or reason, but the defect before developed, that there being no barrier between the legislative, executive, and judiciary departments, the legislature may seize the whole; that having seized it, and possessing a right (by assumption only) to fix their own quorum, they may reduce that quorum to one, whom they may call a chairman,

speaker, dictator, or by any other name they please." (g)

Can demonstration more compleat be desired, Sir, of your perfect knowledge of the tendency of the concentration of the powers of government, than the publication and repeated re-publication of sentiments and observations, such as the foregoing ?

After having stated, Sir, that "the concentrating the powers of government, legislative, executive and judicial in the same hands is precisely the definition of despotic government ; after having declared, that "it will be no alleviation, that these powers will be exercised by a *plurality* of hands, and not by a single one ;" after having declared, that "as little will it avail us, that they are chosen by ourselves ;" after having declared that "searching for the foundations of this proposition" (repeatedly made in your native state for creating a dictator, invested with every power legislative, executive and judicial, civil and military, of life, and of death, over our persons and over our properties) "you could find none which might pretend a colour of right or reason, but the defect before developed, that there being no barrier between the legislative, executive, and judiciary departments, the legislature might seize the whole : " What, I say, after these things, are we to think of your declaration, made at the moment of your entering into the executive functions of your station, that you looked with encouragement for guidance, to those charged with the sovereign functions of legislation ?

The principles, necessarily involved in that declaration, have constituted the principal object of the present enquiry. In the course of my enquiry, I have endeavoured also to demonstrate certain incidental points, intimately connected with the principal object,

and of the truth of which, from the most attentive observation, I felt myself under the most absolute conviction. The first of these incidental points was the existence of a system of inveterate hostility against the constitution of the United States, uniformly and steadily pursued from the adoption of the government to the moment of your present elevation : the second of those incidental points was, Sir, your participation in that inveterate hostility, for a long time suspected, but studiously concealed by extravagant and insincere professions, till it was at length fairly brought to light. Whether I may have been successful in impressing a conviction, similar to my own, on the minds of others, in relation to these points, I know not ; but the grounds of my conviction are fairly before the public, and open to discussion : that discussion is invited ; for if I be in an error, it would be to me, and doubtless to many others, who have not known what to make of these things, a source of infinite satisfaction to be convinced of the right. The foregoing points being established, from a correct review of authenticated and notorious evidence, as is supposed ; the tendency of the principles involved, Sir, in your declaration recurred : that tendency has been shewn from authorities the most respectable, and from the results of recent experience upon the most conspicuous theatre of the political world. In fine, Sir, that tendency, and your perfect knowledge of that tendency, long previous to any recent events, are now demonstrated in your own words. It only remains for your fellow citizens to judge of the motives and views, which could have influenced you in the choice of the course, which you have avowed. They doubtless are competent to decide, whether it be a reasonable inference, that he who avows his pursuit of a certain course, necessarily involving certain principles, with a perfect knowledge of the tendency of those principles, thereby intends

certain consequences conformable to that tendency. If those principles necessarily tend to produce a concentration of the powers of government, and that concentration be precisely the definition of despotic government, it necessarily follows, that the establishment of despotic government is the object aimed at in the adoption of such course and principles.

Your fellow citizens then cannot be at a loss for your motives and views, especially when they shall duly appreciate, as doubtless they will, your sage reflections, that “mankind soon learn to make interested uses of every right and power, which they possess, or may assume :” that “the public money and public liberty intended to have been deposited with three branches of magistracy, but found inadvertently to be in the hands of one, will soon be discovered to be sources of wealth and dominion to those who hold them ; distinguished too by this tempting circumstance, that they are the instrument, as well as the object, of acquisition.” Your fellow citizens, sir, cannot be at a loss, duly to estimate your anxiety for the safety of their rights, and the sincerity of your tender feelings for the poor, when they recollect, with what degree of candour and sincerity your conduct towards others has been marked. Revolving these things, they will doubtless weigh well your admonition, now nearly of twenty years standing, that “they should look forward to a time, and that not a distant one, when corruption in this, as in the country from which we derive our origin, will have seized on the heads of government and be spread by them (in attempt, we hope only) through the body of the people ; and when they will purchase the voices of the people, and make them pay the price.” Whether the period, anticipated, has now arrived can only be determined from a general and connected view of the principles and conduct of those, who possess an ascendancy in power. But what may not

be reasonably apprehended, (notwithstanding any professions which have been, or can be made, *(b)* from those who have been found capable of calumniating, in the foulest manner, the first worth of our country, and whilst that calumny remained in confidence, were still capable of external professions of the most profound respect for that worth?

Having, sir, gone through with my examination of your political principles upon the point proposed in my second letter, I submit it to the judgment of my fellow citizens, whether in this essay for the diffusion of information, I be justly chargeable with contributing to "an ocean of calumny under which it has been thought expedient to endeavour to overwhelm your name" whilst I have uniformly supported every position by specific evidence? whether, in arraigning at the bar of public reason the subjects of my animadversions, I have not arraigned abuses of a tendency most dangerous to the constitution, and to all the important objects of its establishment! and finally whether in doing these things, I have exceeded the right or deviated from the duty common to all citizens?

Accept, sir, the homage of my due respect and consideration.

Your fellow-citizen,

TACITUS.

*(b)* See Mr. JEFFERSON'S Inaugural Address March 4th 1797, as well as that of March 4 1801, appendix No. 13 and 14.



## LETTER IX.

To THOMAS JEFFERSON, *Esquire, President of the United States.*

SIR,

YOUR assent to a late act of Congress, for the purpose of repealing a law of the preceding session, for the more convenient organization of the courts of the United States, being announced in due form, it seems to be an incident too important to be neglected in a review of your political principles and conduct. This act is obviously levelled at the independency of the judiciary of the United States. Its avowed object is to remove from office, without the imputation of misconduct, judges, who, by the explicit terms of the constitution, were to "hold their offices during good behaviour."

The power to effect this object was doubtless greatly desired by those who wished to give full scope to party vengeance, especially the eager expectants of office; but the fruitful minds of the most intelligent of your partizans, previous to the meeting of Congress, seem to have been at a loss both for a pretext and the means. Even judge PENDLETON of Virginia, though impelled by a vehemence of devotion to your views, which erased from his mind the recollection of a former exertion, headed by himself, in defence of judicial independence, could discover no mode under the existing constitution of the United States, save that of impeachment. To sustain a procedure of that sort, proof of official misbehaviour was necessary. All pretext for such charge was wanting. He was therefore compelled, (as he seems to have conceived) to content himself with a proposition for so altering the constitution of the United States, in the forms pre-

scribed by that instrument, as to authorize the removal of the judges "by the concurring vote of both houses of congress." (a) Had he conceived, that an act of congress, substantially the same with the alteration which he proposed, was competent to the same object, is it probable that his impatience would have brooked the delay, necessarily attendant on every regular constitutional amendment or alteration? The fact, that such proposition was made by Mr. PENDLETON on the one hand, and the enactment of this law on the other, conclusively prove one of two things; either the ignorance of Mr. PENDLETON of the import and extent of the provisions of the constitution of the United States, in relation to the tenure of the offices of the judges; or the violation of the constitution by those who had solemnly sworn to support, and by him, who had as solemnly sworn to preserve, protect and defend that instrument, so essential to the union, peace and happiness of our country.

High-handed, as seemed this measure to Mr. PENDLETON, it now appears, sir, to have been contemplated by you, in your address to congress at the commencement of the present session. Your observations, it is true, (according to the course usually characteristic of those, who design to make of others blind instruments of their unexplained designs) were conceived in terms of vague and general import, capable of being construed into various meanings, according to circumstances subsequently to be explored. (b) The mode of exploring what remained to be

(a) See the address of judge PENDLETON of Virginia, under the motto, "The danger not over,"—proposition 3d; published in the Washington Federalist of November 16, 1801, from the Examiner, a paper published in Virginia.

(b) For the expressions alluded to see appendix No. 14.

known in relation to this subject, before a decisive course should be taken ; we are no longer at a loss to conceive, if the declaration made on the floor of congress (by the honourable gentleman who heretofore proclaimed, with apparent satisfaction, the setting of the Sun of Federalism) be correct, and who can question its correctness ?

A half-dozen confidential members of either house of congress, being closetted before the formal introduction of a measure, and being thus initiated into the secrets of the cabinet, become most convenient auxiliaries in ascertaining the practicability of any favorite measures, previously planned and designed. According to their report, a definite sense might be affixed, in due time, to terms before indefinite : or an object, when found to be impracticable, might be abandoned altogether, without being ever drawn from behind the curtain of vague generality. In case of such abandonment, on a discovery of a defect of necessary subserviency, should the scrutinizing eye of political vigilance chance to espy the object really contemplated, and dare to arraign it at the bar of public reason, such generality of terms might moreover furnish a fair pretext for charging any suggestion of such object, to a disposition to overwhelm your name in an ocean of calumny.

The precious debate, sir, which has furnished a foundation for the remarks immediately preceding ; (whilst the independence of sentiment, displayed in the disclosure, does real honour to the principal character engaged in that debate) will probably deserve the attention of the public on more occasions than the present : it will furnish, if we be not greatly deceived, a correct explanation throughout of your singular condescension in looking with encouragement for guidance to those charged with the sovereign functions of legislation. In the closet some half-dozen

members being initiated into the plans and views of the administration, are there to be taught the mode of that guidance, which may be acceptable to your sovereign will and pleasure. To the propositions to be made by any of these half-dozen, a majority of their brethern are to be trained, if possible, to give their support, not only without information, but occasionally in a course even of silent legislation. (c) Such, sir, at least seems to be the obvious tenor of this singular disclosure, confirmed by as singular occurrences, during the present session. (d) But whatever may have been the course observed, in relation to the principal object of the present discussion, it is no longer material to perplex ourselves with conjectures; since the measure has been effected and your sanction, fixing the meaning of the terms used in your address, is now matter of the highest publicity.

Painful as is the knowledge of the completion of this measure, your sanction, sir, has excited no surprise. Previous to the commencement of the present session of congress; nay, sir, at the very moment when your sentiments were first proclaimed in favour of the concentration of the legislative and executive powers of the government, it was foreseen that the independence of the judiciary would be the first object of attack, if the success of that attack could be, in any tolerable degree ascertained. It was hoped, however, that few were possessed of such hardihood, as to disregard the most acknowledged principles of sound policy, when specifically enjoined with the utmost solemnity of constitutional sanction, and in terms

(c) See the speech of the honourable Mr. DAVIS in appendix No. 15, taken from the Washington Federalist of February 16, 1802.

(d) See particularly the Washington Federalist of February 5, 1802, for the mode of rejecting a call for information, and also a specimen of dumb legislation. See also Appendix, No. 16, for a part of the debate.

so plain, that he that runs may read. It was hoped, if neither the solemn official obligation to support the constitution nor a regard for its principles could restrain the headlong spirit of party ; that yet a dread of the resentment of the people, (who assuredly with the preservation of the constitution, and consequently of the independence of the judiciary, one of its most important and valuable features) would have stood as an insuperable barrier in the way of this attempt. The disappointment of these hopes is a source of real surprise, and profound regret. But the measure being effected, it were idle now to remonstrate with those who have actively co-operated or even with those who have reluctantly suffered themselves to be dragged along to concurrence, in this unfortunate transaction : they must be left to awaken to remorse, as times and events shall disclose the effects of their infatuation. It were equally idle to dwell on the particular injuries of those, who by this measure are to be deprived, without cause, of their official stations. Injustice, indeed, in every form deserves our reprobation : but did the injuries sustained relate solely to the individuals who suffer, they might be carried to that general account in which it has been admitted, even the best were to share ; and of which, when every discount shall have been admitted, and shall be found to be insufficient in a day of impartial reckoning, charity would be disposed to close the balance, by an allowance, as of grace, to the frailty of poor human nature. But the injuries resulting from this measure stop not with the individuals : the independence of the judiciary, and the impartial administration of justice, are inseparably connected, both by the constitution and in the nature of things, with the permanency of the commissions of the judges during good behaviour. The emoluments of office, attached to such commissions, may be

the rights of the individuals ; but the independence of the judiciary, inseparable from that permanency, is something more than individual right : it is one of the most important and valuable public rights of the people of the United States, essential to the preservation of every other right, whether of life, of liberty, of property, not only in relation to the present generation, but in relation to millions yet unborn.

Of the foregoing truths none, sir, have been heretofore under stronger conviction than yourself. Your own words have been, in a preceding letter, quoted, demonstrating—1. Your knowledge of the tendency of a concentration of the legislative, executive and judicial powers of government, to create a despotism—2dly. Your full conviction that neither a plurality of hands, nor the elective nature of our government would in any degree palliate that despotism, if introduced by such concentration—3dly. Your earnest desire, that “ the powers of government should be so divided and balanced among several bodies of magistracy, as that no one could transcend their legal limits without being effectually checked and restrained by the others”—4thly. Your regret, when on any occasion you perceived that “ no barrier was provided between these several powers”—and 5thly. Your admission, that to leave “ the judiciary and executive members dependent on the legislative for their subsistence in office,” and still more to leave them dependent “ for their continuance in it,” was to expose “ the executive and judiciary powers” to legislative assumption, and to render opposition ineffectual against such assumption, whenever it should be attempted. But the means, sir, which you yourself, of your own mere motion and free will, proposed, in order to establish barriers against this assumption and consequent concentration of powers, necessarily resulting in despotism, remain to be

disclosed. To this disclosure your attention is now particularly solicited. If it be not in your power to reconcile your assent to the late law, levelled at the independence of the judiciary of the United States, with the principles heretofore maintained by you ; it may behove you to consider, whether it be not requisite to prepare to meet that just indignation of an injured people, which your singular departure from those principles must assuredly, ere long, bring upon you. Since it is to you and to you only that the people of these United States must and ought to look, as the chief author, as well as final sanctioner of this unhappy measure. Your auxiliaries will probably be viewed, as it is presumed they ought to be, simply, as subordinate agents and instruments in your hands.

Dissatisfied with the existing constitution of your native state, because, though the foundation of the government was laid on this correct basis, that the legislative, executive, and judiciary departments should be separate and distinct, no barrier was provided between these several powers ; you, sir, in your high concern, “ to declare these fundamentals to which all our laws, present and future, should be subordinate ” were pleased heretofore to prepare “ the draught of a fundamental constitution for the commonwealth of Virginia. ” — This, sir, your vanity, or your evil genius, induced you to give to the world, by way of appendix to your Notes on Virginia : in that draught you proposed, in definite form, those barriers which you conceived requisite to preserve the independence both of the executive and judicial departments, against the undue enterprises of legislative usurpation. (e)

After declaring, in that draught, that “ the powers of government shall be divided into three distinct departments, each of them to be confided to a separate

(e) See the appendix to the notes on Virginia, No. 2.

body of magistracy ; to wit, those which are legislative to one, those which are judiciary to another, and those which are executive to another." That " no person or collection of persons, being of one of these departments, shall exercise any power properly belonging to either of the others, except in the instances, herein after expressly permitted," you were pleased to proceed to the formation of those departments respectively.

In relation to the judiciary, we find the following provisions.

" The judiciary powers shall be exercised by County Courts and such other inferior courts, as the legislature shall think proper to continue or to erect : by three Superior Courts, to wit, a Court of Admiralty, a General Court of common law, and a High Court of Chancery."

" The judges of the high court of chancery, general court, and court of admiralty, shall be four in number each, to be appointed by joint ballot of both houses of assembly, and to hold their offices during good behaviour."

Thus we find, that the judges of your three superior courts were " to hold their offices during good behaviour," without any other restriction or limitation whatsoever. The extent of the meaning, annexed by you to those terms, were they otherwise doubtful in their import, is conclusively ascertained, by a subsequent provision, in the same draught, relative to the " justices or judges of the inferior courts." After declaring that they also " shall hold their offices during good behaviour," you thought it requisite to add, "*or the existence of their court,*" thereby admitting, in the clearest manner, that had the tenure of their offices, like the tenure of the offices of the judges of your three superior courts, been without this additional restriction or limitation, though a power should



exist in the legislature to modify those inferior courts, yet no modification could, consistently with the terms of that tenure, have operated an extinction of their offices.

The constitution of the United States adopts specifically the same terms, in relation to the judges both of the supreme and inferior courts, as you, Sir, had previously adopted and restricted to your three superior courts.

“The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour.”

Is it possible then, Sir, for any political Proteus whatsoever, to find the semblance of a pretext for attributing a different meaning to the same words, when used in the constitution of the United States, and when used by you, *and conclusively explained*, in an analogous case? With all the authority of your eminent station, and with all the countenance to be afforded to you by your devoted adherents, can you possibly do otherwise, than shrink under a conviction of such inconsistency, when arraigned *at the bar of public reason* before the people of the United States?

The judges then of the United States, both of the supreme and inferior courts, standing upon ground, so far as these words can place them, equally inaccessible to the rightful approaches of legislative power, with the judges of your three superior courts; let us enquire whether any variance in subsequent provisions renders the ground, thus occupied, less tenable in the case of the judges of the United States, than in the case of those judges of your three superior courts.

By the constitution of the United States it is declared, that “the judges both of the supreme and inferior courts shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.”

By your draught, the judges of your three superior courts were to "be allowed for the present each by the year, payable quarterly out of any money in the public treasury. Their salaries, however, may be increased or abated, from time to time, at the discretion of the legislature, provided such increase or abatement shall not, by any ways or means, be made to affect, then or at any future time, any one of those then actually in office."

Did you, Sir, intend by this provision to take care, that those judges, who were to hold their offices during good behaviour," without further restriction or limitation, should be as little dependent upon the legislature for their subsistence, as for their continuance in office? If so, are not the terms of the constitution of the United States equally imperative? The times of payment being once stated by law, become equally fixed under the guaranty of the constitution of the United States, as the quarterly payments under your draught. Does the restriction in your draught upon the legislature, in the exercise of the conceded power to increase or abate from time to time at discretion the salaries of the judges, declaring that "such increase or abatement shall not by any ways or means be made to affect, either then or at any future time, any one of those then actually in office," more completely guard the independence of the judges, by securing the certainty of their compensation, than the plain and simple provision of the constitution of the United States, equally prohibiting all diminution, and permitting an increase, in case of an increase of duties, or the existence of other circumstances, where sound discretion would authorise that increase?

The very terms, sir, in which your restriction is conceived, were it not, that the present period excludes all mirthful sensations, would be sufficient to excite a smile in the gravest philosopher. Surely, sir,

whilst penning these terms you must have had a presentiment of the ridiculous quibbles, which have been lately resorted to, or you never could have thought of tying up the hands of an unprincipled legislature, which might be disposed to invade the constitutional independence of the judiciary, with all the redundant expressions of a pettyfogging attorney, endeavouring to cloak the fraudulent nature of a fraudulent conveyance. Until it shall be solemnly adjudged by those to whom the constitution of the United States has assigned the power to judge, that an object may be indirectly effected, which is directly and totally prohibited by the constitution, I shall continue to think, and I trust, the great body of the American people will think in like manner, that the judges both of the supreme and inferior courts of the United States are, (if the constitution of the United States be really obligatory upon those who have *sworn, either to support, or to preserve, protect and defend it*) equally independent of the legislature of the United States, for their subsistence in office. as the judges of your three superior courts ; notwithstanding the omission of your singular precaution, in the general and solemn provision of the constitution on that subject.

Are other means provided, in the constitution of the United States, for the removal of the judges either of the supreme or of the inferior courts of the United States, than what are to be found in your draught, for the removal of the judges of your three superior courts? You, sir, have provided in your draught a court of impeachments. “ There shall moreover be a court of impeachments to consist of three members of the council of state ; one of each of the superior courts of chancery, common law, and admiralty, two members of the house of delegates and one of the senate, to be chosen by the body respectively of which they are. Before this court any member

of the three branches of government, that is to say, the Governor, any member of the council of the two houses of the legislature, or of the superior courts, may be impeached by the Governor, the council, or either of the said houses or courts, and by no other, for such misbehaviour in office as would be sufficient to remove him therefrom : and the only sentence they shall have authority to pass, shall be that of deprivation, and future incapacity of office. Seven members shall be requisite to make a court, and two thirds of those present must concur in the sentence. The offences cognizable by this court, shall be cognizable by no other, and they shall be triers of the fact, as well as judges of the law.”

The constitution of the United States in like manner provides a court of impeachments.

“ The house of representatives shall have the sole power of impeachments.”

“ The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the chief justice shall preside : and no person shall be convicted without the concurrence of two thirds of the members present.”

“ Judgment in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust, or profit, under the United States. But the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.”

“ The President, Vice-President, and all civil officers of the United States, shall be removed from office, on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.”

“ The trial of all crimes, except in cases of impeachment, shall be by jury.”

Upon a review of the powers of these respective courts of impeachment, they appear to be substantially the same; notwithstanding the variance in the modes of composing those bodies, and in the manner of depositing the power of impeachment. So far as relates to the subject before us, the judges of the United States, to whom the administration of justice is peculiarly assigned, and who therefore, (if any) may be emphatically styled "civil officers of the United States" are under that description, expressly liable to be removed from their offices, which they "hold during good behaviour," "on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors," as are the judges, in like manner, of your three superior courts, who were also "to hold their offices during good behaviour," "for such misbehaviour in office, as would be sufficient to remove them therefrom."

If by the provision in your draught, that the offences cognizable by the court of impeachments should be cognizable by no other court, it was intended (as manifestly it was) to protect all officers, who were to hold their offices during determinate constitutional periods, and the judges of your three superior courts, who were "to hold their offices during good behaviour," without other restriction or limitation, against removal from office, by any other ways or means, during their respective constitutional terms, and tenures; are we not equally authorized to infer from the nature of the government of the United States, that the power of removal from office, being expressly and specifically given to the senate, as a court of impeachment, to be exercised in a certain manner and form, the President, the Vice-President and all civil officers of the United States who hold their offices during determinate constitutional periods, and the judges of the United States, both of the supreme and

inferior courts, who “hold their offices during good behaviour without other restriction or limitation, are not liable to removal, by any other ways or means, unless specifically prescribed, during their respective constitutional terms and tenures?”

It has been heretofore contended that an enumeration of powers was essentially a restriction against the arrogation of other powers, not within the terms of the enumeration. If this doctrine be correct (as assuredly it is, when applied by just discernment according to the principles of fair construction;) must not the specific delegation of a particular power, to a particular body, to be exercised in a particular manner, exclude the exercise of that power by that body, in any other manner or form, than that prescribed? Upon what principle then can the Senate of the United States (who, even in cases of “treason, bribery, or other high crimes and misdemeanors,” are incompetent to convict, unless by a “concurrence of two thirds of the members present,” so as to justify a removal from office) be reputed competent in a case, where not even a pretext for a charge of any offence whatsoever can be found, to sanction, by a bare majority, a measure avowedly designed to produce the same result? Must not the specific delegation of the power, to remove from office those, who “hold their offices during good behaviour,” to the senate, to be exercised “on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors,” by “the concurrence of two thirds of the members present” of that body, still more forcibly preclude the assumption of that power by another body, to be exercised in a manner and form totally different from that prescribed? Upon what principle then can it be maintained, that the house of representatives (whose interference with a view to removal, from office, even in cases of “treason, bribe-

ry, or other high crimes and misdemeanors," except in relation to members of their own body, (*f*) is expressly restricted to "the sole power of impeachment") are competent, in the total absence of every pretext for such charges, to participate, in a legislative capacity, in a measure, designed to remove from office those whom the constitution had explicitly declared should "hold their offices during good behaviour," and concerning whose removal, in the cases specified, it had prescribed the foregoing explicit provision? Can the concurrence or admission of the senate, even when aided, sir, with your high sanction, give validity to such participation? But when it is further considered, that the powers of congress are not only enumerated, and that the power of removing the judges, either of the supreme or inferior courts of the United States, is not only not given to that body in its legislative capacity; but, so far as provisions establishing the tenure of good behaviour and securing the certainty of undiminished compensation during that tenure, can go, is clearly prohibited; must not every man, however plain his understanding and however unaccustomed to the tedious and sometimes perplexing deductions of reason, at once perceive that no pretext remains for asserting, that the judges of the United States, either of the supreme or inferior courts, are by any ways or means, more dependent upon the legislature of the union, than the judges of your three superior courts were intended by you to be, on your proposed legislative department?

Are there other provisions in your draught, which were designed to give to the judicial department a more substantial independence, than was intended un-

(*f*) "Each house (of Congress) may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two thirds, expel a member." Constitution of the United States, article 1, section 5, par. 2.

der the constitution of the United States? If there be, those provisions would still rather prove the strength of your former convictions of the importance of judicial independence generally, than justify a supposition of your contemplating a difference in degree. In no instance were the judges, either under your draught, or the constitution of the United States, to be protected beyond the bounds of good behaviour. Whatever additional provisions, therefore, may have been adopted or proposed in the one instrument or the other they can be correctly referred only to the protection of the same measure of independence. That measure being known, whether further specific provisions for its protection be made or not, the knowledge of the extent of the right conveyed; like the laws of conscience, ought to be, and must be, compleatly obligatory on all men of unperturbed principles.

The independence of the judiciary, under such construction, would be equally respected in Virginia where, sir, you have considered it as a misfortune, that no barriers were provided in its defence, as it ought to be under the constitution of the United States, whose provisions for the protection of judicial independence seem, in so many respects, so analogous to those of your own draught. Whatever might injuriously affect that independence, if that independence be expedient and wise upon original principles, ought then to be forborne at all times and on all occasions by every man, who consents to discharge the functions of a public station under a constitution, which, in giving to the judiciary its political existence, defines and establishes the measure of its independence by the use of terms of well-known import, in a manner equally authoritative with that, by which it defines and establishes the extent of his own political rights and powers. The rights and powers of all, where specific constitutional adjustments are wanting, ought to be



cautiously reconciled by right reason : they must stand together in harmony, or a portion of the public institutions must perish. A gangrene once induced, the whole may be endangered.

*“ Immedicabile vulnus, ense rescindendum.”*

It may become a wound on the body politic, of that dangerous kind, which nothing but the sword of revolution, by lopping one part from another, can stay from destroying the whole. The possibility of such events ought to teach the most daring caution, the most presumptuous hesitation.

These remarks, sir, are preparatory to the introduction of a further provision, proposed by you, for guarding the independence of the judiciary, which was rejected or omitted in the formation of the constitution of the United States. That provision was no other than a direct proposition to give to the judicial department an equal and joint participation with the executive, in revising and controlling, in political form, the proceedings of the legislature.

“ The governor, two counsellors of state and a judge from each of the superior courts of chancery, common law, and admiralty, shall be a council to revise all bills, which shall have passed both houses of assembly, in which council the governor, when present, shall preside. Every bill, before it becomes a law, shall be presented to this council, who shall have a right to advise its rejection, returning the bill with their advice and reasons in writing, to the house in which it originated, who shall proceed to reconsider the said bill. But if after such reconsideration, two thirds of the house shall be of opinion the bill should pass finally, they shall pass and send it, with the advice and written reasons of the said council of revision to the other house, wherein, if two thirds also shall be of opinion it should pass finally, it shall thereupon become law : otherwise it shall not.

“ The members of the said council of revision shall be appointed from time to time by the board or court of which they respectively are. Two of the executive and two of the judiciary members, shall be requisite to do business.”

In this idea, of giving to the judiciary a participation in the power of revising and controlling, in political form, the proceedings of the legislature, you seem not only to have persevered, at the time of the promulgation of the constitution of the United States but to have been disposed to go still further : to withdraw this power totally from the executive and to vest it exclusively in the judiciary ; or at least, to vest it concurrently in the latter. Lest I should be supposed to misrepresent, permit me, sir, to repeat your own words.

“ I like the negative given to the executive, with a third of either house ; though I should have liked it better, had the judiciary been appointed for that purpose, or invested with a similar and separate power.”—(g)

Had such proposition in either mode been adopted, a negative, in a political form, would have been given to the judiciary of the United States over all the measures of Congress, as well those of political expediency and of a general nature, as those which might touch the independency of that department, in any of its members, or the administration of justice. The adoption of such a novelty in government deserved to be well weighed before adventured upon. To blend political power with that which relates to the administration of justice, in the same hands, might possibly have had a tendency of the most injurious kind :

(g) See a letter from Mr. JEFFERSON, dated at Paris, December 20, 1787, published in a defence of his political character, in the gazette of his quondam clerk, FRENCH, usually called the National Gazette, of September 26, 1794.

its effects might have been to substitute, by imperceptible gradations, the principles of the *lex talionis*, which too generally prevail in political affairs, in the place of the pure and peaceful principles of justice, where the latter ought simply and alone to govern. Such, or perhaps some still more weighty consideration, discountenanced the adoption of this innovation, though suggested in your draught : for, with the foregoing marks of attention to the suggestions of your draught, it is more than probable that it did not escape consideration during the deliberations of the convention, which formed the constitution of the United States. The power of deciding upon the constitutionality of laws, in judicial form, (which it must have been foreseen would be inevitably exercised by the judiciary, whensoever questions founded on a collision between the laws and the constitution, should be judicially brought before that body in the ordinary course of the administration of justice) was probably viewed moreover, as a guard equally effectual against legislative aberrations and as more congenial with the chaste character which ought to distinguish the dispensers of justice, than the political negative, with which you proposed to invest the judicial department. If the good sense of the people of America has not wholly failed them ; if we be not marked by infatuation for destruction ; it is hoped this restraint in the judicial form, supported by the public sentiment, may yet be found sufficiently conservative and salutary.

But, sir, whether an adoption of a principle of this sort be expedient or not, was it possible for you to have given a more clear proof of your conviction of the importance of the independence of the judiciary, than first, by the proposition in your draught for forming a council of revision, equally out of the executive and judicial departments, for the purpose of control-

ing the proceeding of the legislative department : and secondly by not only persevering in that idea, but, as it were, upon more mature deliberation, by proposing to vest this power of revision and control wholly and exclusively, or at least concurrently, with the executive, in that very judiciary of the United States, whose independency is now thus wantonly assailed ?

But one incident further remains to be noticed, for the full exposure of your inconsistencies upon this subject. So punctiliously scrupulous were you, sir, heretofore, in relation to any the smallest interference with the members of the judiciary, lest the independence of that important department of government should be, by any ways or means, wounded or impaired ; that you appear to have considered it, as feeling power and forgetting right, even for the legislative department, (when invested, as in your draught, with the express power of appointing the judges) to remove a judge, being once appointed, from one court, to another, though that other court should be sitting under the same roof, and though such removal should moreover be for the sole purpose of a more convenient organization, and should operate neither a diminution of salary, nor an increase of duty ; unless indeed upon the express consent of such judge, previously obtained for such purpose. At the time when you prepared your draught (the fortunate means of exposing your present inconsistencies !) the general court of Virginia was composed of five judges, and the court of chancery of three. You, sir, having decided in your mind, that the number of four, was more proper than any other number of judges for the composition of a court, were desirous of transferring one of the judges of the general court to the court of chancery, so that the former might be reduced, and the latter augmented, to your favourite number of four. Your provision for this important

purpose has the honour of concluding your famous draught in the following words.

“ One of the present judges of the general court, *he consenting thereto*, shall by joint ballot of both houses of assembly, at their first meeting, be transferred to the high court of chancery.”

How different these scruples from your precipitance of the present day !

After these multiplied evidences of your former conviction of the importance of the independency of the judiciary, who, upon any reasonable calculation of human inconsistencies, could have expected to see the day, when you, sir, being solely invested with the power of revising and controlling the proceedings of the legislature of the union, should, without hesitation give your assent to an act, substantially and directly contravening every valuable principle heretofore asserted and maintained by you in defence of this essential portion of free polity ? The man, who in the ordinary concerns of life, and on unimportant occasions, presumptuously advances opinions, and then without reason abandons them, exhibiting a character of ever-varying inconsistency, subjects himself, and justly, to the imputation of trifling, if not of contemptible versatility. In what light then, sir, can you expect your irreconcilable conduct, in this weighty concern, and on this important occasion, to be viewed by the great body of your fellow-citizens, not only those, who heretofore augured no good from your elevation ; but those also, who, being real friends to the constitution, have honestly conceived, they were adding to the stability of that constitution, and to the security of those rights, for the perpetuation of which it was established, whilst favouring your ascent to power ?

You had heretofore asserted the importance of the independence of the judiciary in the most explicit and

solemn manner : you had shewn the necessity of thoroughly establishing that independence, if we wished to preserve to ourselves, and to our posterity the blessings of a free government : you had even specified the means, which you deemed completely competent for that purpose. The great conventional council of your country, when engaged at a subsequent period in devising a system of government, which might watch over and guard this great assemblage of communities and interests, had adopted, almost throughout, the specific means which you had devised and recommended, in regard to the judicial department.— Yet, behold ! you, if not fairly elected by the free and unbiassed voice of a majority of your fellow-citizens, being nevertheless *enounced*, according to the rules of the constitution, President of the United States ; one of the first measures of your administration is aimed at the prostration of the judicial power, in defiance of provisions, recommended by yourself, and adopted as a part of that great constitutional charter under which you now act or ought to act. Surely considerations of the most powerful kind must have induced this public dereliction of former principles ! Surely nothing short of a full assurance of the prostration of the people, as well as of their judiciary, could have authorized this presumptuous change in conduct ! What can those considerations be ? where shall we find the means of explaining a conduct so egregiously inconsistent ?

If we recur to the debates of the legislature of the union ; we there find the most respectable talents arrayed on the side of your former principles : though clear before to all who were not perversely blind, they are rendered infinitely more so, by the united exertions of reason and of eloquence. Is there any thing in the arguments of those who impugn those principles, to justify your present course ?

“ The judges both of the supreme and inferior courts shall hold their offices during good behaviour ” They “ shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors,” says the constitution.

Their offices are nevertheless declared, by these expounders, to be holden of you, sir, as though you were already Lord Paramount of the United States ; and if the judges cannot be removed from their offices during good behaviour, it is nevertheless contended, that their offices may be removed from them, by the sovereign act of those, to whose *guidance* you have been pleased to submit the sovereign functions of your high station !

“ The judges both of the supreme and inferior courts shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office,” says the constitution.

Their offices may nevertheless be discontinued, (say these expounders) by removal from the holders, by an abolition of the courts, in which their services were to be rendered, so as to deprive them of the power of rendering those services ! Their compensations moreover, though they cannot be diminished, may be totally withheld, on account of this failure in services, supposed to be thus rendered inevitable !

Such, sir, is the sum total of the proof, that the tenure during good behaviour, annexed by the constitution to the judicial office, signifies neither more nor less, than during the pleasure of the legislature ! Such is the sum total of the proof, that a title to an undiminished compensation under that tenure may, at any moment be terminated by the pleasure of the legislature ! (b)

(b) See the debates of the majority, *passim*, in the late discus-

Have the friends of the constitutional independence of the judges, during good behaviour, dared to hesitate at yielding "absolute acquiescence in (such) decisions of the majority"? They are not only chargeable with violating "the vital principle of republics"; but, for this high misdemeanor, are actually held up to public odium, as being favourers of monarchy, of sinecure systems, of executive patronage, (*i*) nay, as designing to promote the establishment of a judicial despotism of such horrid kind, that even the stoutest champions of liberty and republicanism feel themselves justified in looking by anticipation, to the government of *one lenient tyrant* (*j*) a state, (strange to tell!) which seems to be viewed as infinitely preferable to that, in which liberty and justice might be compelled to go hand in hand. So inconsistent, in modern ideas, are liberty and justice! So incompatible, the new-found republicanism of the present period, with the equal protection of the rights of all through an independent judiciary!

Is this the manner, sir, in which you heretofore contemplated to render the members of the judiciary independent of the legislature, during good behaviour, for both their continuance, and subsistence in office? With such evidences before us of determined hostility to an independent and upright judiciary, is it possible, sir, that any man in his sober senses can repose confidence in professions of "equal and exact justice to all men, of whatever state or persuasion, religious or political?"

sion upon this subject in the two branches of the legislature of the union.

(*i*) See particularly the speech of the honourable Mr. GILES, of Virginia, on the 18th of February, 1802, in the Washington Federalist of March 3d and 4th, 1802.

(*j*) See the speech of the honourable Mr. THOMPSON, also of Virginia, on the 16th of February, 1802, particularly near the close, in the Washington Federalist, of February 27, 1802.



Is this the liberality, sir, by which you and your confidential adherents now propose to “restore to social intercourse that harmony and affection, without which liberty and even life itself are but dreary things” ?

Is this the spirit, by which the champions of liberty and republicanism are actuated ? A Lord Paramount, of whom the judges of the United States are to be reputed to hold their offices ! The government of one lenient tyrant !

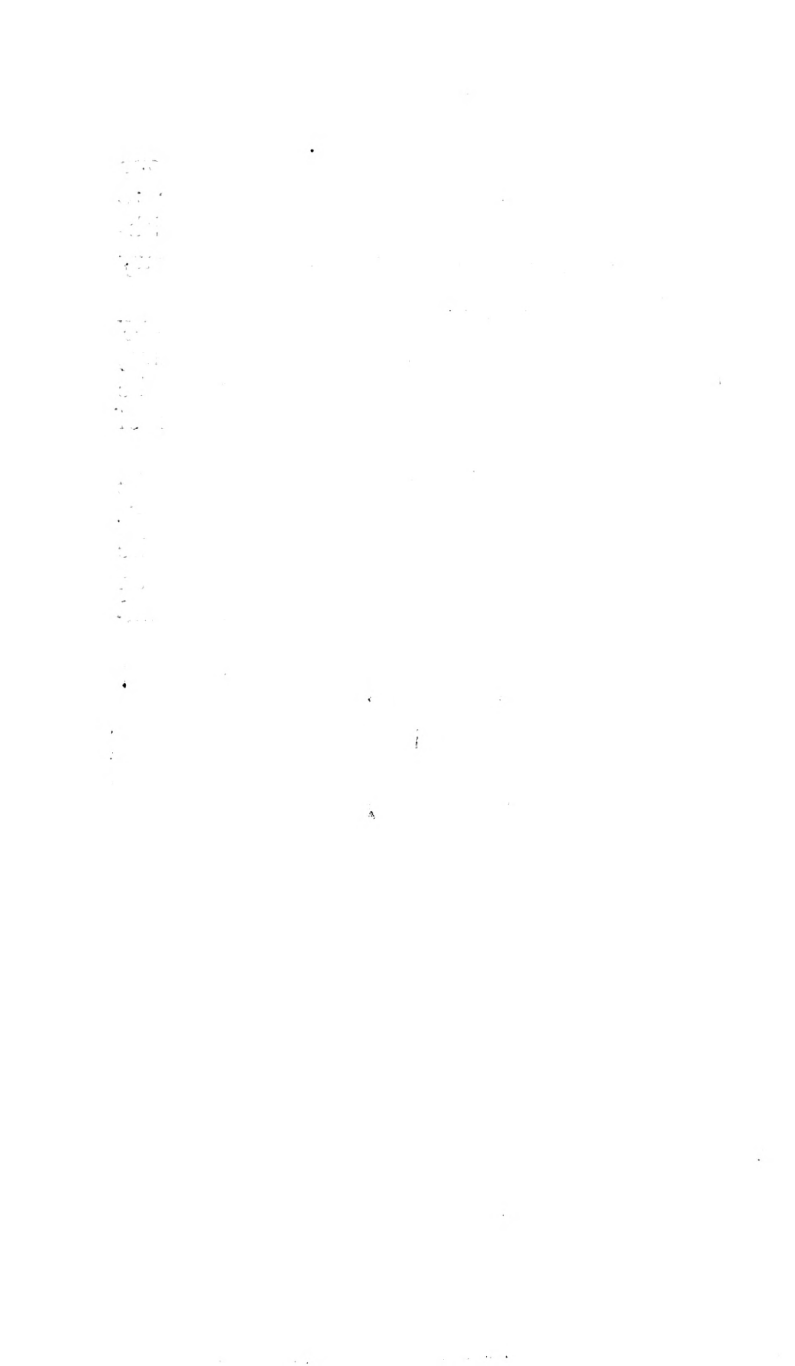
Is not this, sir, sufficiently intelligible ? If in the reasonings of those, who impugn your former principles, a justification of your present course cannot be found, does it follow, that in the point, to which they look, the means of explanation may not be discovered ?

Accept, sir, for the present, my homage—of all due consideration and respect.

Your Fellow-Citizen,

TACITUS.

*March 27, 1802.*



# APPENDIX

TO THE

## LETTERS OF TACITUS.

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### NUMBER I.

"*LORD, now lettest thou thy servant depart in peace, for mine eyes have seen thy salvation*"—was the pious ejaculation of a man who beheld a flood of happiness rushing in upon mankind. If ever there was a time that would license the reiteration of the exclamation, that time is now arrived; for *the man who is the source of all the misfortunes of our country* is this day reduced to a level with his fellow-citizens, and is *no longer possessed of power to multiply evils upon the United States*: If ever there was a period for rejoicing, *this is the moment*. Every heart in unison with the freedom and happiness of the people ought to beat high with exultation, that *the name of WASHINGTON* from this day ceases to give currency to *POLITICAL INIQUITY*, and to legalize *CORRUPTION*! A new æra is now opening upon us—an æra that promises much to the people; for public measures must now stand upon their own merits, and NEFARIOUS PROJECTS CAN NO LONGER BE SUPPORTED BY A NAME. When a retrospect is taken of the Washington administration, for eight years, it is a subject of the greatest astonishment, that a single individual could have *cankered the principles of republicanism* in an enlightened people, and should have carried his designs against the public liberty so far as to have put in JEOPARDY ITS VERY EXISTENCE: SUCH however are THE FACTS, and with these staring us in the face, this day ought to be a jubilee in the United States."

*Extræd from the Aurora March 4, 1797.*

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### NUMBER II.

“WHEREAS by an act, intituled “an act for vesting in GEORGE WASHINGTON, Esquire, a certain interest in the companies established for opening and extending the navigation of James and Potowmack River,” and reciting, “that whereas it is the desire of the representatives of this commonwealth to embrace every suitable occasion of testifying their sense of the unexampled merits of GEORGE WASHINGTON, Esq. towards his country; and it is their wish in particular that those great works for its improvement, which, both as springing from the liberty, which he has been so instrumental in establishing, and as encouraged by his patronage; will be durable monuments of his glory, may be made monuments also of the gratitude of his country” It is enacted, “that the treasurer be directed, in addition to the subscriptions he is already authorized to make to the respective undertakings for opening the navigations of Potowmack and James’s rivers, to subscribe to the amount of fifty shares to the former and one hundred shares to the latter to be paid in like manner with the subscriptions above mentioned: and that the shares so subscribed be, and the same are hereby vested in GEORGE WASHINGTON, Esq. his heirs and assigns forever, in as effectual a manner as if the subscriptions had been made by himself or by his attorney.” And whereas the said GEORGE WASHINGTON, Esq. in his letter addressed to the Governor, which has been laid before the general assembly, hath expressed his sentiments thereupon, in the words following, to wit:—“Your Excellency having been pleased to transmit me a copy of the act appropriating to my benefit certain shares in the companies for opening the navigation of James and Potowmack rivers, I take the liberty of returning to the general assembly, through your hands, the profound and grateful acknowledgments, inspired by so signal a mark of their beneficent intentions towards me. I beg you, sir, to assure them, that I am filled on this occasion with every sentiment which can flow from a heart warm with love for my country, sensible to every token of its approbation and affection, and solicitous to testify, in every instance, a respectful submission to its wishes. With these sentiments in my bosom, I need not dwell on the anxiety I feel, in being obliged, in this instance, to decline a favour, which is rendered no less flattering by the manner in which it is conveyed, than it is affectionate in itself. In explaining this obligation, I pass over a comparison in my endeavours in the public service with the many honourable testimonials of approbation, which have already so far overrated and overpaid them; reciting one consideration only.

which supercedes the necessity of recurring to every other. When I was first called to the station, with which I was honoured during the late conflict for our liberties, to the diffidence, which I had so many reasons to feel in accepting it. I thought it my duty to join a firm resolution to shut my hand against every pecuniary recompence; to this resolution I have invariably adhered, from this resolution (if I had the inclination) I do not consider myself at liberty to depart. Whilst I repeat therefore my fervent acknowledgments to the legislature for their very kind sentiments and intentions in my favour, and at the same time beg them to be persuaded, that a remembrance of this singular proof of their goodness towards me, will never cease to cherish returns of the warmest affection and gratitude, I must pray that their act, so far as it has for its object my personal emolument, may not have its effect. But if it should please the general assembly to permit me to turn the destination of the fund vested in me, from my private emolument to objects of a public nature, it will be my study in selecting these, to prove the sincerity of my gratitude for the honour conferred on me, by preferring such as may appear most subservient to the enlightened and patriotic views of the legislature"—And whereas the desire of the general assembly to mark, by the provision above mentioned, their sense of the illustrious merits of the said GEORGE WASHINGTON, Esq. at the same time that it is strengthened by this fresh and endearing proof of his title to the gratitude of his country, is superceded by their respect for his disinterested wishes and patriotic views."

"Be it enacted that the said recited act, so far as it vests in GEORGE WASHINGTON, Esq. and his heirs, the shares therein directed to be subscribed in his name, shall be, and the same is hereby repealed."

"And be it further enacted, that the said shares, with the tolls and profits hereafter accruing therefrom, shall stand appropriated to such objects of a public nature, in such manner, and under such distributions, as the said GEORGE WASHINGTON, Esq. by deed during his life, or by his last will and testament, shall direct and appoint."

*Extract from the acts of the General Assembly of Virginia, passed at their session of October, 1785. Chap. 11.*

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### NUMBER III.

#### GENET'S LETTER,

Extracted from the documents accompanying the President's  
Message to Congress, delivered December 5, 1793.

[TRANSLATION.]

New York, Sept. 18, 1793.

2d year of the French Republic, one and indivisible.

*Citizen GENET, Minister Plenipotentiary, of the French Republic  
with the United States, to Mr. JEFFERSON, Secretary of State of  
the United States.*

SIR,

PERSUADED that the sovereignty of the United States resides essentially in the people, and its representation in the congress : persuaded that the executive power is the only one which has been confided to the President of the United States ; persuaded that this magistrate has not the right to decide questions, the discussion of which, the constitution reserves particularly to the congress ; persuaded that he has not the power to bend existing treaties to circumstances, and to change their sense ; persuaded that the league formed by all the tyrants, to annihilate republican principles, founded on the rights of man, will be the object of the most serious deliberations of Congress, I had deferred in the sole view of maintaining good harmony between the free people of America and France, communicating to my government, before the epoch at which the representatives of the people were to assemble, the original correspondence which has taken place, in writing, between you and myself, on the political rights of France in particular ; on the interests of general liberty ; and on the acts, proclamations and decisions of the President of the United States, relative to objects which require, from their nature, the sanction of the legislative body. However, informed that the gentlemen who have been painted to me so often as aristocrats, partisans of monarchy, partisans of England, of her constitution and consequently enemies of the principles which all good Frenchmen have embraced with a religious enthusiasm ; alarmed at the popularity which was reflected on the minister of France by the affection of the American people for the French Republic, and for the glorious cause which it defends ; equally alarmed at my unshaken and incorruptible attachment to the severe maxims of democracy, were labouring to ruin me in my country, after having re-united all the efforts to calumniate me in the view of their fellow citizens, I was going to Legia to collect these afflicting materials, and I was taking

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measures to transmit them to France with my reports, when the denunciation which these same men have excited the President to exhibit against me, through Mr. MORRIS, came to my hands. Strong in the principles which have directed my conduct, sheltered from every well-founded reproach, I expected, nevertheless, to have found in it some serious allegations ; but what has been my astonishment on finding, that the American people were more outraged in it than myself, that it was supposed, that I exercised over them a *sovereign* influence, that it was pretended that I was making them take a part in the war of liberty, for the defence of their brethren, of their allies, against the intention of their government ; that judgments favourable to our interests rendered in the midst of the acclamations of the citizens of Philadelphia, by juries and by independent tribunals, have not been the expressions of a severe justice ; in short, that I was a power within another power.

Such strange accusations, proving only that the American people loves and supports our principles and our cause, in spite of its numerous enemies ; and that the power which they do me the honour to attribute to me, is only that of gratitude struggling against ingratitude, of truth combating error. I will send no other justification of my conduct. I will join only in support of the opinions which I meant to profess, some writings which have been published here, such as those of *Veritas*, *Helvidius* &c. As to the personal outrages as to the doubts which you insinuate on my devotion to the union of the people, I have reason to believe they will not make a great impression, when the answers shall be required to, which I made to the numerous addresses which your fellow citizens deigned to present me : when it shall be recollected, that placed at the age of twelve years in the bureau [office] of foreign affairs, it was I who had the advantage of contributing to penetrate the French with the spirit of 1776 and 1777, by translating into our tongue, under the direction of my father, then head of the bureau, the greater part of your laws and of the writings of your politicians ; that since that epoch, always faithful to the cause of liberty, I have rendered to the Americans, in the different employments I have had, all the services which depended on me ; and that, in fine, charged to represent the French people, with the first people who have proclaimed the rights of man, knowing how far our ancient government had put libertine shackles on the commerce and on the intimacy of our two nations, I have neglected nothing to obtain, on the one hand, the liberal basis on which the new bands which the French people desire to contract with the United States, were to be negotiated, in order that on the other, the federal government might be sensible how urgent it was to occupy

themselves promptly on the conclusion of this true family compact, which was forever to unite the political and commercial interests of two people equally objects of the hatred of all tyrants: besides sir, whatever may be the result of the achievement of which you have rendered yourself the generous instrument, *after having made me believe, that you were my friend, after having initiated me into mysteries which HAVE INFLAMED MY HATE* against all those who aspire to an absolute power, there is an act of justice, which the American people, which the French people, which all free people are interested to reclaim; that is that there be made a particular inquiry in the next Congress, of the MOTIVE\* on which the head of the executive power of the United States has taken on himself to demand the recall of a public minister, whom the SOVEREIGN PEOPLE of the United States HAD RECEIVED fraternally and RECOGNIZED before the diplomatic forms had been fulfilled with respect to him, at Philadelphia.

It is in the name of the French people, that I am sent to their brethren—to free and sovereign men: it is then for the representatives of the American people, and not for a single man, to exhibit against me an act of accusation, if I have merited it. A despot may singly permit himself to demand from another despot the recall of his representative, and to order his expulsion in case of refusal. This is what the Empress of Russia did with respect to myself, from Louis XVI. But in a free state it cannot be so, unless order be entirely subverted; unless the people, in a moment of blindness, chuses to rivet their fetters in making to a single individual, the abandonment of their most precious rights. I pray you then, sir, to place under the eyes of the President of the United States, the demand which I make in the name of equity, to lay before Congress for their discussion, at the epoch when they shall be assembled by the law, if the great events which occupy the universe, do not appear yet sufficient to hasten their convocation—1st. All the questions relative to the political rights of France, and the United States. 2d. The differences resulting from our state of war with the powers of whose acts of aggression I have informed you. 3d. The heads of accusation which the minister of the United States with the French republic, is charged to exhibit against me, and against the consuls whose character is compromised and outraged in the most scandalous manner, for having obeyed superior orders, which it was neither in their power nor in mine to revoke. In this ex-

\* Good republicans of that day had not such an abhorrence to an inquiry into motives of the executive as they have manifested on a more recent occasion.



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pectation, sir, I do not consider the dignity of the French nation as compromised by the extraordinary position in which I find myself, as well as the consuls, and I have to complain only of the forms you have employed.

The executive council of the French republic had also complaints of a very different nature from those alleged against me, to exhibit against Mr. MORRIS, your ambassador at Paris: but penetrated with a just sentiment of respect for the sovereignty of the American people, it recommended to me only to make confidential observations to you on the necessity of recalling this minister plenipotentiary, accused by the public voice of facts established, but not by the representatives of the people after a regular inquiry, of having favoured as much as he could the counter-revolutionary projects of Louis XVI, of communicating to him memoirs, in which he advised him not to accept the constitution; of having had no connection but with suspected persons; of having affected the greatest contempt for all those who served faithfully the cause of the people; of having been the channel of the counsels which conducted LA FAYETTE into the prisons of Prussia; of having abused the respect of the French people for the envoy of the American people to facilitate more surely the correspondence and the conspiracies of all its enemies; of having shewn nothing but ill humour in his relations with the ministers of the French republic; of having affected, in writing to them, to employ, in speaking of the executive of the United States, only the words "*In the name of my court,*" so shocking to republican ears; of having demanded a passport the 1<sup>st</sup> August 1792, to go into England with the ambassador of George III; and of having said publicly, with a confidence which the present event justifies, that if the embassy of the republic should be received at Philadelphia, its existence and that of the republican consuls in America, would not be of long duration there.

I have already mentioned to you, sir, some of these imputations; but, as I have already told you, out of respect for the sovereignty of the United States, I thought I should leave to their wisdom the care of taking measures, the most suitable to reconcile their dignity with what their prudence might require.

Not doubting, sir, that the justice which I require will be done me, as well as my co operators, I ought to inform you, that I am about to have printed all my correspondence with you, all my instructions, and all those of the consuls, in order that the American people, whose esteem is dearer to me than life, may judge if I have been worthy or not, of the fraternal reception which it deigned to give me; if in all my official papers I have not expressed my respect for that virtuous nation and my confidence in the purity of their sentiments; If I have insisted on a

single principle, which has not been supported since, by decisions of the juries or tribunals of the country ; if in acting and expressing myself with the frankness and the energy of a republican I have attacked the constitution ; if I have refused respect to a single law : in fine, if, in reclaiming with all the firmness which was prescribed to me, the faithful execution of our treaties, I have not endeavoured to encourage the federal government to employ the only means worthy of a great people, to preserve peace and to enjoy the advantages of neutrality — an useful object, not to be obtained by timid and uncertain measures, *by premature proclamations*, which seem extorted by fear, by a partial impartiality which sours your friends without satisfying our enemies ; but by an attitude firm and pronounced, which apprises all the powers that the very legitimate desire of enjoying the fruits of peace, has not made you forget what is due to justice, to gratitude, and that without ceasing to be neutral, you may fulfil public engagements contracted with your friends, in a moment when you were yourselves in danger.

I will answer more in detail, sir, at a proper time, your violent diatribe ; but it contains one fact on which I must now give you explanations. *You are MADE* to reproach me with having indiscreetly given to my official proceedings, a tone of colour, which has induced a belief, that they did not know, in France, either my character or my manners. I will tell you the reason, sir : it is that a pure and warm blood runs with rapidity in my veins ; that I love passionately my country ; that I adore the cause of liberty ; that I am always ready to sacrifice my life to it ; that to me, it appears inconceivable, that all the enemies of tyranny, that all virtuous men, do not march with us to the combat ; and that when I find an injustice is done to my fellow-citizens, that their interests are not espoused with the zeal which they merit, no considerations in the world would hinder either my pen or my tongue from tracing, from expressing my pain. I will tell you then, without ceremony, that I have been extremely wounded, sir, 1<sup>st</sup> that the President of the United States was in a hurry, before knowing what I had to transmit to him, on the part of the French republic, to proclaim sentiments, on which decency and friendship should at least have drawn a veil. 2<sup>d</sup>. That he did not speak to me at my first audience, but of the friendship of the United States toward France, without saying a word to me, without announcing a single sentiment on our revolution ; while all the towns from Charleston to Philadelphia had made the air resound with their most ardent wishes for the French republic. 3<sup>d</sup> That he had received and admitted to a private audience, before my arrival, NOAILLES and TALON, known agents of the French counter-revolutionists, who have since had

intimate relations with two members of the federal government. 4th. That this first magistrate of a free people, decorated his parlour with certain medallions of CAËR and his family, which served at Paris as signals of rallying. 5th. That the first complaints which he made to my predecessor on the armaments and prizes which took place at Charleston on my arrival, were in fact but a paraphrase of the notes of the English minister. 6th. That the Secretary of War, to whom I communicated the wish of our governments of the Windward Islands, to receive promptly some fire arms and some cannon which might put into a state of defence possessions guarantied by the United States, had the FRONT to answer ME with ironical carelessness, that the principles established by the President did not permit him to lend us so much as a pistol. 7th. That the Secretary of the Treasury, with whom I had a conversation on the proposition which I had made to convert almost the whole American debt, by means of an operation of finance authorized by law, into flour, rice, grain, salted provisions and other objects of which France had the most pressing need, added to the refusal which he had already made officially of favouring this arrangement, the positive declaration, that even if it were practicable, the United States could not consent to it, because England would not fail to consider this extraordinary reimbursement furnished to a nation with which she is at war, as an act of hostility. 8th. That by instructions from the President of the United States, the American citizens who ranged themselves under the banners of France, have been prosecuted and arrested, a CRIME *against liberty unheard of*, of which a virtuous and popular jury avenged with eclat the defenders of the best of causes. 9th. That incompetent tribunals were suffered to take cognizance of facts relative to prizes which treaties interdict them expressly from doing; that on the acknowledgment of their incompetence, this property, acquired by the right of war, was taken from us, that it was thought ill of, that our consuls protested against these arbitrary acts, and that as a reward for this devotion to his duty, the one at Boston was imprisoned as a malefactor. 10th. That the President of the United States took on himself to give to our treaties arbitrary interpretations, absolutely contrary to their true sense, and that by a series of decisions which they would have us receive as laws, he left no other indemnification to France, for the blood she spilt, for the treasure she dissipated in fighting for the independence of the United States, but the illusory advantage of bringing into their ports the prizes made on their enemies, without being able to sell them. 11th. That no answer is yet given to the notification of the decree of the national convention for opening

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our ports in the two worlds to the American citizens, and granting the same favour to them as to the French citizens ; advantages which will cease, if there be a continuance to treat us with the same injustice. 12th. That he has deferred, *in spite of MY* respectful insinuations, to convoke Congress *immediately*, in order to take the true sentiments of the people, to fix the political system of the United States, and to decide whether they will break, suspend or tighten their bands with France ; an honest measure which would have avoided to the federal government much contradiction and subterfuge, to me much pain and disgust, to the local governments embarrassments so much the greater, as they found themselves placed between treaties, which are laws and decisions of the federal government, which are not : in fine, to the tribunals duties so much the more painful to fulfil, as they have been often under the necessity of giving judgment contrary to the intentions of the government.

It results from all these facts, sir, that I could not but be profoundly affected with the conduct of the federal government towards my country, a conduct so contrary to what the will of their sovereign, to what the proceedings of mine gave me reason to expect : and that if I have shewn firmness, it was because it was indispensable that my resistance should be equal to the oppression, to the injustice, which were in opposition to the interests confided to me ; it is, that it was not in my character to *speak, as many people do*, in one way and *act* in another ; TO HAVE AN OFFICIAL LANGUAGE AND A LANGUAGE CONFIDENTIAL. I have done strictly my duty ; I have defended my ground, and I will suffer no precedent against any of the rights of the French people while there remains to me a breath of life ; while our two, republics shall not have changed the basis of their political and commercial relations, while they shall not have persuaded the American people that it is more advantageous for them to have become insensibly the slaves of England, the passive tributaries of their commerce, the sport of their politics than to remain the allies of the *only* power who may be interested to *defend their sovereignty and their independence* ; to open to them their colonies, and to their riches those markets which double their value. If it be to this that tend all the machinations set in motion against the French Republicans and against their friends in the United States ; if it be to attain this more conveniently, that they wish to have here, instead of a democratic ambassador, a minister of the ancient regimen, very complaisant, very mild, well disposed to pay his court to people in place, to conform himself blindly to whatsoever may flatter their views and their projects, and to prefer above all to the modest and sure society of good farmers.

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plain citizens, honest artizans, that of distinguished personages, who speculate so patriotically on the public fund of the lands and paper of the state, I know not if the French Republic can find for you at this day, such a man in their bosom : but in all events sir, I can assure you that I will press very strongly, its government to *sacrifice me without hesitation*, if this justice offers the least utility.

Accept my respects,

GENET.

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### NUMBER IV.

#### TRANSLATION

Of Mr FAUCHET'S Political Dispatch No. 10. extracted from  
"A Vindication of Mr. RANDOLPH'S Resignation," page  
41 to 48.

#### LEGATION OF PHILADELPHIA.

##### FOREIGN RELATIONS.

*Private Correspondance of the Minister on Politics, No. 10.*

Philadelphia, the 10th Brumaire,  
3d year of the French Republic one and indivisible.  
(October 31st, 1794.)

#### CITIZEN,

I. THE measures which prudence prescribes to me to take, with respect to my colleagues, have still presided in the digesting of the dispatches signed by them, which treat of the insurrection of the western countries, and the repressive means adopted by the government. I have allowed them to be confined to the giving of a faithful but naked recital of events ; the reflections therein contained scarcely exceed the conclusions easily deducible from the character assumed by the public prints. I have reserved myself to give you, as far as I am able, a key to the facts detailed in our reports. When it comes in question to explain, either by conjectures or by certain data, the secret views of a foreign government, it would be imprudent to run the risk of indiscretions, and to give oneself up to men whose known partiality for that government, and similitud of passions and interests with its chiefs, might lead to confidences, the issue of which are incalculable. Besides, the precious confessions of Mr. RANDOLPH alone throw a satisfactory light upon every thing that

comes to pass. These I have not yet communicated to my colleagues. The motives already mentioned lead to this reserve, and still less per it me to open myself to them at the present moment. I shall then endeavour, citizen, to give you a clue to all the measures of which the common dispatches give you an account, and to discover the true causes of the explosion which it is obstinately resolved to repress with great means, although the state of things has no longer any thing alarming.

2. To confine the present crisis to the simple question of the excise is to reduce it far below its true scale; it is indubitably connected with a general explosion for some time prepared in the public mind, but which this local and precipitate eruption will cause to miscarry, or at least check for a long time;—in order to see the real cause, in order to calculate the effect, and the consequences, we must ascend to the origin of the parties existing in the state, and retrace their progress.

3. The present system of government has created malcontents. This is the lot of all new things. My predecessors have given information in detail upon the parts of the system which have particularly awakened clamours and produced enemies to the whole of it. The primitive divisions of opinion, as to the political form of the state, and the limits of the sovereignty of the whole over each state individually sovereign, had created the *federalists* and the *anti federalists*. From the whimsical contrast between the name and the real opinion of the parties, a contrast hitherto little understood in Europe, the former aimed and still aim, with all their power, to annihilate federalism, whilst the latter have always wished to preserve it. This contrast was created by the *consolidators* or the constitutionalists [*constituans*] who, being first in giving the denominations (a matter so important in a revolution) took for themselves that which was most popular, though in reality it contradicted their ideas, and gave to their rivals one which would draw on them the attention of the people, notwithstanding they really wished to preserve a system whose prejudices should *cherish at least the memory and the name*.

4. Moreover, these first divisions, of the nature of those to be destroyed by time, in proportion as the nation should have advanced in the experiment of a form of government, which rendered it flourishing, might now have completely disappeared, if the system of finances which had its birth in the cradle of the constitution had not renewed their vigour under various forms. The mode of organizing the national credit, the consolidating and funding of the public debt, the introduction in the political economy of the usage of states which prolong their existence,

or ward off their fall only by expedients, imperceptibly created a financiering class who threaten to become the aristocratical order of the state. Several citizens, and, among others, those who had aided in establishing independence with their purses or their arms, conceived themselves aggrieved by these fiscal engagements. Hence an opposition which declares itself between the farming or agricultural interest, and that of the fiscal; federalism and anti-federalism, which are founded on those new denominations in proportion as the treasury usurps a preponderance in the government and legislation: hence, in fine, the state divided into partisans and enemies of the treasurer and of his theories. In this new classification of parties, the nature of things gave popularity to the latter, an innate instinct, if I may use the expression, caused the ears of the people to revolt at the names alone of *treasurer* and *stock-jobber*: but the opposite party, in consequence of its ability, obstinately persisted in leaving to its adversaries the suspicious name of *anti-federalist*, whilst in reality they were friends of the constitution, and enemies only of the excrescences which financiering theories threatened to attach to it.

5. It is useless to stop longer to prove that the monarchical system was interwoven with those novelties of finances, and that the friends of the latter favoured the attempts which were made in order to bring the constitution to the former by insensible gradations. The writings of influential men of this party prove it; their real opinions too avow it, and the journals of the senate are the depository of the first attempts.

6. Let us, therefore, free ourselves from the intermediate spaces in which the progress of the system is marked, since they can add nothing to the proof of its existence; let us pass by its sympathy with our regenerating movements, while running in monarchical paths; let us arrive at the situation in which our republican revolution has placed things and parties.

7. The anti-federalists disembarrass themselves of an insignificant denomination, and take that of PATRIOTS and of REPUBLICANS. Their adversaries become *aristocrats*, notwithstanding their efforts to preserve the advantageous illusion of ancient names, opinions clash and press each other; the aristocratic attempts which formerly had appeared so insignificant are recollected; the treasurer, who is looked upon as their first source, is attacked; his operations and plans are denounced to the public opinion; nay, in the sessions of 1792 and 1793, a solemn inquiry into his administration was obtained. This first victory was to produce another, and it was hoped that *faulty or innocent*, the treasurer would retire, no less by necessity in the one case, than from self-love in the other. He, emboldened by the

triumph which he obtained in the useless enquiry of his enemies, of which both objects proved equally abortive, seduced besides by the momentary reverse of republicanism in Europe, removes the mask and announces the approaching triumph of his principles.

8. In the mean time, the popular societies are formed ; political ideas concenter themselves ; the *patriotic* party unite and more closely connect themselves ; they gain a formidable majority in the legislature ; the *abatement of commerce*, the *slavery of navigation*, and the audacity of England, strengthen it. *A concert of declarations and censures against the government arises ; at which the latter is even itself astonished.*

9. Such was the situation of things towards the close of the last and at the beginning of the present year. Let us pass over the discontents which were most generally expressed in these critical moments. They have been sent to you at different periods, and in detail. In every quarter are arraigned the imbecillity of the government towards Great Britain, the defenceless state of the country against possible invasions, the coldness towards the French Republic ; the system of finance is attacked, which threatens eternising the debt under pretext of making it the guaranty of public happiness ; the complication of that system which withholds from general inspection all its operations—the alarming power of the influence it procures to *a man whose principles are regarded as dangerous*—the preponderance which that man acquires from day to day in public measures, and in a word, the immoral and impolitic modes of taxation, which he at first presents as expedients, and afterwards raises to permanency.

10. In touching this last point WE *att in the principal complaint* of the Western people, and the *ostensible motives* of their movements. Republicans by principle, independent by character and situation, they could not but accede with enthusiasm to the *eliminations which WE have sketched*. But the *excise* above all affects them. Their lands are fertile, watered with the finest rivers in the world ; but the abundant fruits of their labour run the risk of perishing for the want of means of exchanging them as those more happy cultivators do for objects which desire indicates to all men who have known only the enjoyments which Europe procures them. They therefore convert the excess of their produce into liquors imperfectly fabricated, which badly supply the place of those they might procure by exchange. The *excise* is created and strikes at this consoling transformation ; their complaints are answered by the only pretext, that they are otherwise inaccessible to every other species of import. But why, in contempt of treaties, are they left to bear the yoke of the feeble



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Spaniard, as to the Mississippi, for upwards of twelve years? Since when has an agricultural people submitted to the unjust capricious law of a people explorers of the precious metals? Might we not suppose that Madrid and Philadelphia mutually assisted in prolonging the slavery of the river; that the proprietors of a barren coast are afraid, lest the Mississippi, once opened and its numerous branches brought into activity, their fields might become deserts, and, in a word that commerce dreads having rivals in those interior parts as soon as their inhabitants shall cease to be subjects? This last supposition is but too well founded; an influential member of the senate, Mr. LIZARD, one day in conversation undisguisedly announced it to me.

11. I shall be more brief in my observations on the murmurs excited by the system for the sale of lands. It is conceived to be unjust that these vast and fertile regions should be sold by provinces to capitalists who thus enrich themselves, and retail with immense profits, to the husbandmen, possessions which they have never seen. If there were not a latent design to arrest the rapid settlement of those lands and to prolong their infant state, why not open in the West land offices, where every body without distinction should be admitted to purchase by a small or large quantity? Why reserve to sell or distribute to favourites, to a clan of flatterers, of courtiers that which belongs to the state, and which should be sold to the greatest possible profit of all its members.

12. Such therefore were the parts of the public grievance, upon which the western people most insisted. Now as the common dispatches inform you, these complaints were systematizing by the *conversations of influential men* who retired into those wild countries, and who from principle, or by a series of particular heart-burnings, animated discontents already too near to effervescence. At last the local explosion is effected. The western people calculated on being supported by some distinguished characters in the east, and even imagined they had in the bosom of the government some abettors, who might share in their grievances or their principles.

13. From what I have detailed above, those men might indeed be supposed numerous. The sessions of 1793 and 1794 had given importance to the republican party, and solidity to its accusations. The propositions of Mr. MADISON, or his project of a navigation act, of which Mr. JEFFERSON was originally the author, tapped the British interest, now an integral part of the financiering system. Mr. TAYLOR, a republican member of the senate, published, towards the end of the session, three pamphlets, in which this last is explored to its origin, and de-

veloped in its course and consequences with force and method. In the last he asserts that the decrepit state of affairs resulting from that system, could not but presage, under a rising government, either a revolution or a civil war.

14. The first was preparing : the government which had foreseen it, reproduced, under various forms, the demand of a disposable [*disponible*] force which might put it in a respectable state of defence. Defeated in this measure, who can aver that it may not have hastened the local irruption, in order to make an advantageous diversion, and to lay the more general storm which it saw gathering ? Am I not authorized in forming this conjecture from the conversation which the secretary of state had with me and LE BLANC, alone, an account of which you have in my dispatch No. 3 ? But how may we expect that this new plan will be executed ? By exasperating and severe measures, authorised by a law which was not solicited till the close of the session. This law gave to the one already existing for collecting the *excise* a coercive force which hitherto it had not possessed, and a demand of which was not before ventured to be made. By means of this new law\* all the refractory citizens to the old one were caused to be pursued with a sudden rigour ; a great number of writs were issued ; doubtless the natural consequences from a conduct so decisive and so harsh were expected ; and before these were manifested, the means of repression had been prepared ; this was undoubtedly what Mr. RANDOLPH meant in telling me, *that under pretext of giving energy to the government it was intended to introduce absolute power, and to mislead the president in paths which would conduct him to unpopularity.*

15. Whether the explosion has been provoked by the government ; or owes its birth to accident, it is certain that a commotion of some hundreds of men, who have not since been found in arms, and the very pacific union of the counties in Braddock's field, an union which has not been revived, were not symptoms which could justify the raising of so great a force as 15 000 men. Besides the principles uttered in the declarations hitherto made public, rather announced ardent minds to be calmed than anarchists to be subdued. But in order to obtain something on the public opinion prepossessed against the demands contemplated to be made, it was necessary to magnify the danger, to disfigure the views of those people, to attribute to them the design of uniting themselves with England, to alarm the citizens for the fate of the constitution, whilst, in reality, the revolution threatened

\* This law was mentioned in the comment upon the laws of the last session included in No 9 of the correspondence of the minister.

only the ministers. This step succeeded ; an army is raised ; this military part of the suppression is doubtless Mr. HAMILTON's, the pacific part and the sending of commissioners are due to the influence of Mr. RANDOLPH over the mind of the President, whom I delight always to believe and whom I do believe truly virtuous and the friend of his fellow citizens and principles.

16. In the mean time, although there was a certainty of having an army, yet it was necessary to assure themselves of co-operators among the men whose patriotic reputation might influence their party, and whose lukewarmness or want of energy in the existing conjunctures might compromise the success of the plans. Of all the governors whose duty it was to appear at the head of the requisitions, the governor of Pennsylvania alone enjoyed the name of republican : his opinion of the secretary of the treasury and of his systems was known to be unfavourable. The secretary of this state possessed great influence in the popular society of Philadelphia which in its turn influenced those of other states ; of course he merited attention. It appears, therefore, that these men with others unknown to me, all having without doubt RANDOLPH at their head, were balancing to decide on their party. Two or three days before the proclamation was published and of course before the cabinet had resolved on its measures, Mr. RANDOLPH came to see me with an air of great eagerness, and made to me the overtures of which I have given you an account in my No. 6. Thus with some thousands of dollars the Republic could have decided on civil war or on peace ! Thus the consciences of the pretended patriots of America have already their prices [*tarif*.] It is very true that the certainty of these conclusions, painful to be drawn, will forever exist in our archives ! What will be the old age of this government, if it is thus early decrepit !—Such, citizen, is the evident consequence of the system of finances conceived by Mr. HAMILTON. He has made of a whole nation a stock jobbing, speculating, selfish people. Riches alone here fix consideration ; and as no one likes to be despised, they are universally fought after. Nevertheless, this depravity has not yet embraced the mass of the people ; the effects of this pernicious system have as yet but slightly touched them. Still there are patriots, of whom I delight to entertain an idea worthy of that imposing title. Consult MONROE, *he is of this number*. He had apprised me of the men whom the current of events had dragged along as bodies devoid of weight. His friend MADDISON is also an honest man. JEFFERSON, on whom the patriots cast their eyes to succeed the President, had foreseen these crises. He prudently retired

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*in order to avoid making a figure against his inclination in scenes, the secret of which will soon or late be brought to light.*

17. As soon as it was decided that the French Republic purchased no men to do their duty, there were to be seen individuals, about whose conduct the government could at least form uneasy conjectures, giving themselves up with a scandalous ostentation to its views, and even seconding its declarations. The popular societies soon emitted resolutions stamped with the same spirit, and who, although they may have been advised by love of order, might, nevertheless, have omitted or uttered them with less solemnity. Then were seen coming from the very men whom we had been accustomed to regard as having little friendship for the system of the treasurer, harangues without end, in order to give a new direction to the public mind. The militia, however, manifested some repugnance, particularly in Pennsylvania, for the service to which they were called. Several officers resign; at last, by excursions or harangues, incomplete requisitions are obtained, and scattered volunteer corps from different parts make up the deficiency. How much more interesting, than the changable men whom I have painted above, were those plain citizens who answered the solicitations which were made to them to join the volunteers—"If we are required we will march; because we do not wish not to have a government, but to arm ourselves as volunteers would be in appearance subscribing implicitly to the excise system which we reprobate."

18. What I have said above, authorises then our resting on the opinion, become incontrovertible, that in the crisis which has burst, and in the means employed for restoring order, the true question was the destruction or the triumph of the Treasurer's plans. This being once established, let us pass over the facts related in the common dispatches, and see how the government or the treasurer will take from the very stroke which threatened his system the safe opportunity of humbling the adverse party, and of silencing their enemies whether open or concealed. The army marched; the President made known that he was going to command it; he sat out for Carlisle; HAMILTON, as I have understood, requested to follow him; the President dared not to refuse him: It does not require much penetration to divine the object of this journey: In the President it was wise, it might also be his duty; but in Mr. HAMILTON it was a consequence of the profound policy which directs all his steps; a measure dictated by a perfect knowledge of the human heart. Was it not interesting for him, for his party, tottering under the weight of events without, and accusations within, to proclaim an intimacy more perfect than ever with the President, whose very name is

a sufficient shield against the most formidable attacks? Now what more evident mark could the President give of his intimacy, than by suffering Mr. HAMILTON, whose name even is understood in the west as that of a public enemy, to go and place himself at the head of the army which went, if I may use the expression, to cause his system to triumph against the opposition of the people? The presence of Mr. HAMILTON with the army must attach it more than ever to his party; we see what ideas these circumstances give birth to on both sides, all however to the advantage of the Secretary.

19. Three weeks had they encamped in the west without a single armed man appearing. However, the President, or those who wished to make the most of this new manœuvre, made it public that he was going to command in person. The session of congress being very near, it was wished to try whether there could not be obtained from the presses, which were supposed to have changed, a silence, whence to conclude the possibility of infringing the constitution in its most essential part, in that which fixes the relation of the president with the legislature. But the patriotic papers laid hold of this artful attempt. I am certain that the office of the secretary of state, which alone remained at Philadelphia (for while the minister of finance was with the army, the minister of war was on a tour to the Province of Maine, four hundred miles from Philadelphia) maintained the controversy in favour of the opinion which it was desired to establish. A comparison between the president and the English monarch was introduced, who, far removed from Westminster, yet strictly fulfils his duty of sanctioning. It was much insisted on, that the constitution declares, that the president commands the armed force. This similitude was treated with contempt. The consequence of the power of commanding in person, drawn from the right to command in chief (or direct) the force of the state, was ridiculed and reduced to an absurdity, by supposing a fleet at sea and an army on land. The result of this controversy was, that some days after, it was announced, that the president would come to open the approaching session.

20. During his stay at Bedford, the president doubtless concerted the plan of the campaign with Mr. LEE, to whom he left the command in chief. The letter by which he delegates the command to him is that of a virtuous man, at least as to the major part of the sentiments which it contains. He afterwards set out for Philadelphia, where he has just arrived, and Mr. HAMILTON remains with the army.

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21. This last circumstance unveils all the plan of the secretary. He presides over the military operations in order to acquire, in the sight of his enemies, a formidable and imposing consideration. He and Mr. LEE, the commander in chief, agree perfectly in principles. The governors of Jersey and Maryland harmonize entirely with them. The governor of Pennsylvania, of whom it never would have been suspected, lived intimately and publicly with HAMILTON. Such an union of persons would be matter sufficient to produce resistance in the western counties, even admitting they had not thought of making any.

22. The soldiers themselves are astonished at the scandalous gaiety with which those who possess the secret proclaim their approaching triumph. It is asked, of what use are fifteen thousand men in this country, in which provisions are scarce, and where are to be seized only some turbulent men at their plough. Those who conducted the expedition know this; the matter is to create a great expense; when the farms shall come to be assessed, no one will be willing to pay, and should each pay his assessment, it will be done in cursing the insurgent principles of the patriots.

23. It is impossible to make a more able manœuvre for the opening of congress. The passions, the generous indignation which had agitated their minds in the last session were about being renewed with still more vigour; there was nothing to announce of brilliant success which they had promised. The hostilities of Great-Britain on the continent so long disguised, are now become evident, a commerce always harassed, ridiculous negotiations lingering at London, waiting until new conjunctures should authorize new insults. Such was the picture they were likely to have to offer the representatives of the people. But this crisis, and the great movements made to prevent its consequences, change the state of things. With what advantage do they denounce an atrocious attack upon the constitution, and appreciate the activity used to repress it; the aristocratical party will soon have understood the secret; all the misfortunes will be attributed to patriots; the party of the latter is about being deserted by all the weak men, and this complete session will have been gained.

24. Who knows what will be the limits of this triumph? Perhaps advantage will be taken by it to obtain some laws for strengthening the government, and still more precipitating the propensity, already visible, that it has towards aristocracy.

25. Such are, citizen, the data which I possess concerning these events, and the consequences I draw from them. I wish I may be deceived in my calculations, and the good disposition

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of the people, their attachment to principles lead me to expect it. I have perhaps herein fallen into the repetition of reflections and facts contained in other dispatches: but I wished to present together some views which I have reason to ascribe to the ruling party, and some able manœuvres invented to support themselves. Without participating in the passions of the parties, I observe them, and I owe to my country an exact and strict account of the situation of things. I shall make it my duty to keep you regularly informed of every change that may take place; above all I shall apply myself to penetrate the disposition of the legislature: that will not a little assist in forming the final idea which we ought to have of these movements, and what we should really fear or hope from them.

Health and fraternity.

(Signed)

JH. FAUCHET.

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### NUMBER V.

#### LETTER TO MAZZEI.

*From the Paris Moniteur (a French official Paper) of January 25, 1798.*

This letter, literally translated, is addressed to M. MAZZEI, author of *Recherches*, historical and political, upon the United States of America, now resident in Tuscany.

“OUR political situation is prodigiously changed since you left us. Instead of that noble love of liberty, and that republican government which carried us through the dangers of the war, an Anglo-Monarchico-Aristocratic party has risen. Their avowed object is to impose on us the *substance* as they have already given us the *form* of the British government. Nevertheless the principal body of our citizens remain faithful to republican principles. All our proprietors of lands are friendly to those principles as also the men of talents. We have against us (republicans) the *Executive Power*, the *Judiciary Power* (two of the three branches of our government) *all the officers of government*, *all who are seeking offices*, *all timid men who prefer the calm of despotism to the tempestuous sea of liberty*, *the British merchants and the Americans who trade on British capitals*, *the speculators*, *persons interested in the bank and public funds* (establishments invented with views of corruption, and to assimilate us to the British model in its corrupt parts.)

“ I should give you a fever, if I should name the apostates who have embraced these heresies ; men who were Solomons in council and *Samsons in combat*, but whose hair has been cut off by the whore of England.\*

“ They would wrest from us that liberty which we have obtained by so much labour and peril ; but we shall preserve it.— Our mass of weight and riches are so powerful, that we have nothing to fear from any attempt against us by force. It is sufficient that we guard ourselves, and that we *break the Lilliputian ties* by which they have bound us, in the first slumbers which succeeded our labours. It suffices that we *arrest the progress* of that *system of ingratitude and injustice* towards *France*, from which they would alienate us, to bring us under British influence,” &c.

Thus far the letter, to which there are subjoined in the French paper lengthy remarks—what follows is a part of them :

“ It is certain that of all the neutral and friendly powers, there is none from which France had a right to expect more interest and succour than from the United States. *She is their true Mother Country*, since she has assured to them their liberty and independence. Ungrateful children, instead of abandoning her, they ought to have armed in her defence.

“ The French government, is short, hastened the resentment of the French nation, by breaking off communication with an ungrateful and faithless ally,” &c.

It is unnecessary to trouble the reader with any remarks. The language of Mr. JEFFERSON's letter and the remarks in the French papers upon it are too plain not to be understood. All that is necessary for the inquirer of truth is to ask himself, am I to believe what Mr. JEFFERSON writes confidentially in his closet to a friend abroad, that the ties of his government must be broken ? or is there more belief to be given to open declarations at home of him and his friends, that he respects the constitution at a time popularity is sought for ?

\* It is hardly worth while, since the allusion is so pointed, to remark that the writer meant President WASHINGTON, who indeed was a “ *Samson in combat*!—but whose hair,” according to Mr. JEFFERSON, “ has been cut off by the whore of England ” that is, France by England. Is there a man not devoted to Mr. JEFFERSON's party and deaf to the language of truth, who can believe such slander of the deceased venerable chief ? It is a fact, that from the time the letter to WASHINGTON appeared, Mr. JEFFERSON never afterwards had any intercourse at Mount Vernon, while General Washington was alive ; nor has he or his adherents denied the fact.



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### NUMBER VI.

FROM THE RICHMOND EXAMINER.

Copy of Mr. JEFFERSON's Letter in reply to one addressed to him by a Citizen of Berkeley.

Monticello, September 4, 1800.

SIR,

YOUR favour of August 26th has been duly received and is entitled to my thankfulness for the personal considerations you are pleased to express in it. How far the measure proposed might have the expected effect, you can best judge: however, in the great exercise of right in which the citizens of America are about to act. I have, on mature consideration, seen, that it is *my duty to be passive*. The interests which they have at stake are entitled to their whole attention, unbiassed by personal esteem or local considerations; and *I am far from the presumption of considering myself equal to the awful duties of the first magistracy of this country*. That there should be differences of opinion among our fellow-citizens is to be expected always. Men who think freely, and have the right of expressing their thoughts, will differ. It is true, that these *differences* have of late been *artificially increased*; but they are now again subsiding to their natural level, and all will soon come right, if no acts of violence intervene.

The great question which divides our citizens is, whether it is safest that *a preponderance of power should be lodged with the Monarchical or the Republican branch of our government*? Temporary panics may produce advocates for the former opinion, even in this country; but the opinion will be as short-lived as the panic, with the great mass of our fellow citizens. There is one circumstance which will always bring them to rights,—*a preponderance of the executive over the legislative branch* cannot be maintained but by immense patronage, by multiplying offices, making them very lucrative, by armies, navies, &c. which may enlist on the side of the patron all those whom he can interest, and all their families and connexions; but *these expenses must be paid by the labouring citizen*; he cannot long continue, therefore, the advocate of opinions which, to say only the least of them, *doom the labouring citizens to toil and sweat for useless pageants*.

*I should be unfaithful to my own feelings, were I not to say, that it has been the greatest of all human consolations to me to be considered by the republican portion of my fellow citizens, as the safe depositary of their rights. The first wish of my heart is, to see them so guarded as to be safe in any hands, and not to depend on the personal disposition of the depositary: and I hope this to be practicable as long as the*

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people retain the spirit of freedom. When that is lost, all experience has shewn, that no forms can keep them free against their own will. But that corrupt state of mind must be very distant in a country where, for ages to come, *unoccupied soil will still offer itself to those who wish to reap for themselves what themselves have sown.*

Our chief object at present should be, to reconcile *the divisions* which have been *artificially excited*, and to *restore society to its wonted harmony.* Whenever this shall be done, it will be found, that there are *very few real opponents to a government elective at short intervals.*

Accept assurances of the respect, Sir,  
Of your very humble servant,

TH. JEFFERSON.

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The features of the foregoing letter, addressed to a simple and illiterate old man, are well calculated to captivate and hold in thralldom the minds of the uninformed. To the more discerning it presents a very different aspect. The pretensions to *an absolutely passive resignation*, and to *singular modesty*, compel even those who are willing to forget, to recollect the unprincipled exertions, which were incessantly made to combine and bring into operation, every engine, however worthless, for the purpose of securing even at the hazard of the constitution, the union and the peace of our country that identical station concerning which these more than modest professions are made. The pretensions to extraordinary zeal in the cause of republicanism are evidenced by an apparent disposition to degrade the object, to which aspiring ambition was struggling to rise. That ambition, as well as a spirit of calumny against the then existing administration, are betrayed in the attempt to misrepresent the just alarm of the country, at the threats of France of national annihilation, as *temporary panics, artificially excited and increased* by the government, whilst devotion to France according to the declaration of DUPONT DE NEMOURS, and resentment at the resistance of the government, are equally betrayed in the attempt to pervert the necessary preparations for defence into *useless pageants*, and provisions for the perpetuation of power. The unhallowed designs of unprincipled ambition are again betrayed by extraordinary sympathy pretended for *the labouring citizens* and by gross flattery to the few, who are denominated *the republican portion*, whilst the barriers of the constitution, the only means of *so guarding the rights of all, as to be safe in any hands, and not to depend upon the personal disposition of any depository*, are to be brought into jeopardy by such advances of a depository, the avowed adversary of

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the independence of the judiciary, the avowed concentrator of legislative and executive powers, and the avowed opponent of an equipoise in the government. To crown the whole, a spirit of *reconciliation and harmony* is claimed in the end. This *conciliatory and harmonizing spirit* has since manifested itself by denouncing, as a *political sect*, those under whose honourable appellation, an asylum has been sought, and by proscribing even *the best men* upon avowed party principles. The operations of this harmonizing spirit are at length to result in what? Why in a proof, *that there are very few real opponents to a government elective at short intervals*. Where is the evidence that there are any such? Let him who puts forth the illiberal and unfounded insinuation produce his evidence of its truth, or let him stand, as he ought to do, a calumniator convicted.

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### NUMBER VII.

Extract from the Documents accompanying Mr. PICKERING's Letter to General PINCKNEY, as communicated by President WASHINGTON to Congress in his Message of January 19, 1797.

No. 114.

[TRANSLATION.]

24th Messidor, 3d Republican year, 12. July, 1795. O. S.

P. A. ADET presents his compliments to Mr. RANDOLPH, and sends him the letter which he should have addressed to him some days ago, if the fever he is afflicted with had permitted him to attend to business. Mr. RANDOLPH will find with that letter a part of P. A. ADET's instructions, relative to the articles of the treaty which the French government has instructed him to stipulate positively. The other articles, founded on reciprocal advantages, are left to the course of the negotiation which is to establish them.

P. A. ADET will have the honour of seeing Mr. RANDOLPH as soon as his health will permit.

No. 116.

[TRANSLATION]

Extract from the Instructions given by the French Government to Citizen ADET.

The minister plenipotentiary shall stipulate positively and without reserve, the reciprocal exemption from the tonnage

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duty, so necessary to our mercantile marine. This exemption, implicitly assured in the ports of the United States by the 4th and 5th articles of our commercial treaty, has never been executed therein; and since the organization of their customs, a very burthenome tonnage duty has been rigorously exacted on our merchant vessels. Even in 1793 a severity and an injustice were used which the American government should not have suffered. But the *respective naturalization of the French and American citizens, proposed by Mr. JEFFERSON, and desired by the French nation* will facilitate this stipulation of a reciprocal exemption from tonnage, and render it less offensive to the powers who, in virtue of treaties, might claim a participation in the same advantages: as the *casus fœderis* would by this stipulation be changed in this respect.

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## NUMBER VIII.

THE word "revolution" and its derivative "revolutionary" like many terms in every language, may be used with a considerable variety of signification. In the country from whence we had derived our language and the principles of our laws, as well as our origin, the term "revolution," in a political sense, had been long used to designate that settlement of the government, which had taken place upon the abdication of James II. and the admission of William III and Mary, the daughter of James, to the throne, in 1688, by a recurrence to its original and fundamental principles, as they had been long asserted and maintained on the one part, though disputed and sometimes violated on the other. In America the term "revolution" had been used to signify the crisis which produced a severance of the British empire, and the establishment of the United States as a separate and independent nation. That event was owing to a contest *not for new, but for ancient and fundamental principles on our part*, an equal right to participate in which had been denied by Britain to the people of the United States, and by the people of the United States asserted and successfully maintained, under the auspices of WASHINGTON. In this sense the term "revolution" had been used subsequent to the establishment of American independence, and previous to the commencement of the convulsions in France. Of this adherence to ancient princi-

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ples, as the object of contest, the clearest proof exists in the declaration of rights of almost every state in the union.

The convulsive state of France has also been called a revolution, and by the confusion of ideas, excited in consequence of the application of one and the same name to events or crises wholly different, much mischief has probably been done. The political events, in British and American history, styled *revolutions*, having originated in the assertion of ancient principles, calculated to give effect to a rational, temperate, and practicable liberty, consistent with the preservation of justice on the one hand, and the authority of government on the other, and having terminated, in consequence of their adaptation to previous and approved usages, and to the actual situation of those whom they concerned, in the happiest manner, a signification highly favourable and popular became attached to the term "revolution" itself. That favourable signification still attended the term, when applied to the state of France, though nothing, in fact, could be more dissimilar. The principles of the revolution of France, as it has been called, had nothing in them of preservation: they went to a perfect erasure of all former principles, rights, and ideas: every thing was changed; society and government were broken up from their foundations; consequently, there remained nothing to which a recurrence might be had. The result is known. In what sense is WASHINGTON to be styled a revolutionary character? The expression itself is of modern invention and of foreign extraction. It was not to be found in American language, till, like many other modern terms, it was spuriously begotten by an illicit connection with French principles. Was WASHINGTON then, in French signification, *our first and greatest revolutionary character*? If his spirit takes any concern in our present humiliating condition, and deigns to attend to our new-fangled terms, is it possible, that it can find pleasure in this equivocal, to say the least of it, compliment to his memory?

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## NUMBER IX.

CAN it be hypercritical to suppose a mental reservation here? During the discussion of the subject of a national monument to be erected to the memory of WASHINGTON, a variety of artifices were resorted to, in order to prevent the adoption of any adequate plan for that purpose. The expense of such a work was much

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dwelt on. This was known to be a popular topic, and of considerable efficacy with some who were not likely to be influenced against it by any other consideration. But this was nevertheless an ostensible, rather than a real objection with those who were most strenuously opposed to it. Averse to incur directly an imputation of hostility to his memory, they were willing to concur in the erection of a monument, and that too at considerable expense, provided that monument should be of such kind as, having relation solely to his former military services as a general, might cast a shade of censure, by invidious implication, upon his subsequent political services as president. Hence the recurrence to the old resolution of congress concerning an equestrian statue in bronze. That, by reason of the time of its adoption, necessarily excluded every idea of a reference to subsequent events. It was foreseen that a great permanent national monument, erected to his memory *generally* would be peculiarly calculated to recal the mind of every beholder to a state of solemn contemplation upon the character, principles, and conduct of him to whose memory it should be erected. It was foreseen, that the pure virtue the illustrious and disinterested services, and the singular prudence and judgment which had marked his course through life, and which had led to the most happy result in relation to his country, could not fail to attract the approbation and admiration of those who should seriously contemplate that virtue, those services, and that prudence and judgment. It was foreseen, that this approbation and admiration would naturally tend to fix the public mind upon the means by which that happy result had been produced. But this, it was foreseen, must also tend to the political condemnation of those who had uniformly censured and opposed the principles and measures of his administration. They therefore opposed the erection of a monument which should at once attest the gratitude of their country, and contribute to the permanency of its happiness. Is it not equally probable, that one who had ungenerously represented WASHINGTON as an *apostate*, as a *Sampson in combat, whose hair had been cut off by the whore of England*, should be cautious how he admitted his continuing title to his country's love, or to a station in the fairest page of the volume of faithful history?

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### NUMBER X.

*"TELL me by what means ye have lost your so flourishing Republic in so short a time? There came forth a swarm of orators, consisting of strangers, fools, and unexperienced youths."*

Poets have been often said to be prophets. Were we to concur in attributing a portion of the prophetic spirit to old Nævius (Vide Ciceronis Catonem majorem, cap. 6) we might with the aid of a little enthusiasm attribute to him visions which Columbus never saw. We might suppose that he foresaw not only Columbus's voyage, but the voyages of many late imported patriots, who better than any others answer to his description of "*novi*" and who, according to Roman ideas, must be such as nobody knew any thing about before. Of these new imported patriots, these "*oratores novi*," some have come from countries unknown, some from countries now no more, and some, though from countries known, of such doubtful characters, that it had been better could it have been said of them, that nothing is known, since nothing good is known. For the virtuous, peaceful foreigner, who comes to seek peace and an honest livelihood in our country, may all the kindness of hospitality, and blessings more than he has ever conceived, be showered down upon him. But for the noisy, meddling, mischievous intruder, let him be scouted by every real American citizen, who respects the original principles and partook of the original rights of American independence. "*A stranger, who at Athens intermeddled in the assemblies of the people, was punished with death,*" says an ancient writer. "*This was* (says MONTESQUIEU) *because such a man usurped the rights of sovereignty.*" Without proceeding to the democratic extremity of Athenian severity, we might nevertheless frown into silence those busy disturbers of the public peace, the "*oratores novi*," whatever might be the imde taken by them for diffusing their pestiferous principles. Their silence would, without doubt, not a little diminish the inconvenience suffered from the "*oratores stulti*," whose numbers, as well as insatiation have doubtless been increased by the influence of the "*oratores novi*." The silence of the first class, the "*Oratores novi*," and the diminution of the second class, the "*oratores stulti*" would probably render the mild corrective of Connecticut sufficient for the third class, the "*oratores adolescentuli*." Inquiries are said to have been made some time since of a gentleman of that State whether freedom of sentiment was not there unduly restrained by the authority of the priesthood, and the influence of the civil power? He is said to have replied, by explaining the frequency, nature and business of the various town and other meetings of the people, in

which every man enjoyed and exercised the utmost freedom of speech and of sentiment, consistent with order and decorum. He however is said to have concluded his information with an observation to the following effect.—“*If a young man were to rise up on one of these occasions, and tell the meeting that the old men were fools ; and that neither they nor their ancestors had ever yet acquired any knowledge of their own interests, or knew what was for the advantage of the State ; but that he could instruct them in all these things:—To be sure* (said he smiling) *the people would laugh at him.*” Unless some correctives can be applied to the “*oratores novi, stulti, adolescentuli,*” it requires not the ken of second sight, nor the skill of a soothsayer to foresee and predict that the period is not far distant, when it may be truly exclaimed in the words of APPIUS CLAUDIUS the blind ;

“*Quo vobis mentes, rectæ quæ stare solebant*

“*Antehac, dementes sese flexere viâ?*”

## NUMBER XI.

“THE laws and the constitution of the kingdom of England, (says Mr. BURKE) entrust the sole and exclusive right of treating with foreign potentates to the king. This is an undisputed part of the legal prerogative of the crown. However, notwithstanding this, Mr. FOX, without the knowledge or participation of any one person in the house of commons, with whom he was bound by every party principle, in matters of delicacy and importance, confidentially to communicate, thought proper to send Mr ADAMS as his representative, and with his cypher, to St Petersburg, there to frustrate the objects for which the minister from the crown was authorized to treat. He succeeded in this his design, and did actually frustrate the king’s minister in some of the objects of his negociation.

“This proceeding of Mr. FOX does not (as I conceive) amount to absolute high treason ; Russia, though on bad terms not having been then declaredly at war with this kingdom. But such a proceeding is, in law, not very remote from that offence, and is undoubtedly a most unconstitutional act, and a high treasonable misdemeanour.

“The legitimate and sure mode of communication between this nation and foreign powers is rendered uncertain, precarious and treacherous, by being divided into two channels, one with



the government, one with the head of a party in opposition to that government; by which means the foreign powers can never be assured of the real authority or validity of any public transaction whatsoever.

“On the other hand, the advantage taken of the discontent which at that time prevailed in parliament and in the nation, to give to an individual an influence directly against the government of his country, in a foreign court, has made a highway into England for the intrigues of foreign courts in our affairs. This is a fore evil: an evil, from which before this time, England was more free than any other nation. Nothing can preserve us from that evil—which connects cabinet-factions abroad, with popular factions at home—but the keeping sacred the crown, as the only channel of communication with every other nation.”  
—*Extract from Mr. BURKE'S Posthumous Works. part 2d, page 14.*

The constitution of the United States declares, that “He (the President) shall have power by and with the advice and consent of the Senate, to make treaties, provided two thirds of the senators present concur, and he shall nominate, and by and with the advice and consent of the Senate shall appoint ambassadors, other public ministers and consuls.”—“He shall receive ambassadors and other public ministers;”—It further declares that “No State shall enter into any treaty, alliance or confederation”—that “No State shall without the consent of Congress, enter into any agreement or compact with another State, or with a foreign power.”

The doctrines laid down by Mr. BURKE, in the preceding extract, in relation to the kingdom of England, substantially apply to every independent country, whatever may be its form of government. If the principle of keeping sacred the authority of that department of the government which is designated by the constitution, as the only channel of communication with every other nation, be not adhered to, that highway into our country for the intrigues of foreign courts in our affairs, must be made, and that fore evil which connects cabinet factions abroad with popular factions at home, (to use the language of Mr. BURKE)—or those dangers against which WASHINGTON warned us, when he said “Against the insidious wiles of foreign influence (I conjure you to believe me, fellow citizens) the jealousy of a free people ought to be constantly awake,—must gain ingress over that highway into our country.

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TO give some idea of the general depravation of manners, and perversion of ideas prevalent in France ; and of the character of the directorial government, let the following brief extracts suffice.

In page 51, speaking of the trite apothegms of the time, CARNOT tells us the following were current. " Principle is only fit for fools. The constitution is only fit for fools,—honour and fidelity to our engagements are only fit for fools—there is no such thing as right, but for him who is the strongest,—all other theories of pretended principles are absurd, and he who appeals to them is a dolt."

In page 90, the following passage occurs. " The system pursued by the directory is by no means ambiguous to any one who has attentively observed their proceedings. Their system is evidently to found the power of the nation, less on the aggrandizement of the republic, than on the weakness and destruction of its neighbours :—to fight them one against another, to treat them as friends, so long as they have occasion to paralyze them by exhausting all the succours they can yield ; and when the time is come for crushing them, instantly to employ their fertile genius in inventing sufficient pretexts to practise the fable of the wolf and the lamb."

In page 156, CARNOT relates an interview between a shoemaker and himself, in which the shoemaker had honoured CARNOT by considering him as a BRUTUS : the tenor of the conversation draws the following reflexions from CARNOT, " From this I perceived that this class of society had been purposely filled with such wild ideas, that with them every constitution, every law, and every government whatever, appeared an invasion of liberty, every man in office a tyrant, and every one who proposed to kill them, especially if he undertook the office himself, as a BRUTUS."

In page 182, we find the following passage—" Who are the decided enemies of republican government, but those who strive to render it odious ? Since words alone are of no value, it is experimental happiness, which the people require. If they are wretched in a republic, they will demand a monarchy. If they are made to believe, that a republic offers nothing, but a perpetual state of self denial,—that it is a government where justice is administered by cannon balls, and where it is dispensed with, when any one cuts the throat of a royalist,—where fear is the universal principle of action,—where natural affections are weaknesses, and the prejudices of education are considered as crimes, where d colour and good faith are ridiculous, and a wish for

tranquillity a breach of public duty : where liberty consists in a right to oppress, and the character of the government is violent and arbitrary ; I say, if such a description of a republic is offered to the people, they will demand a monarchy. Such alas ! is the false, but miserable opinion, which the greater part of the French nation have been brought to adopt. Examine them, particularly in the country, and you will now discover, that each of them has quietly formed a distinct and twofold arrangement of his fellow citizens. In one of these classes he places those, who are gentle in their manners, of peaceable disposition, very susceptible of alarm, but regular in their lives, and supporters of good order, and these he will describe as aristocrats. In the other, he arranges all those whose qualities appear to be insensibility, effrontery, luxuriousness, calumny and impiety ; and he names them patriots ”

The exclusive patriots and republicans of America mourned the fall of the directory, and consigned *their overthrower* to the fate destined for CARNOT : for this, see the publications both in the Aurora and in the Universal Gazette, upon the first receipt of the news of that event. Of the coincidence of the principles and sentiments between the *foi-disant* patriots of the one country and the other, every man can judge for himself.

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### NUMBER XIII.

Extract from the Inaugural Address of Mr. JEFFERSON, when inducted into the office of Vice-President of the United States, March 4, 1797.

“ I MIGHT here proceed, and with the greatest truth, to declare my zealous attachment to the constitution of the United States ; that I consider the union of these states as the first of blessings, and as the first of duties the preservation of that constitution which secures it : but I suppose these declarations not pertinent to the occasion of entering into an office whose primary business is merely to preside over the forms of this house ; and no one more sincerely prays that no accident may call me to the higher and more important functions which the constitution eventually devolves on this office. These have been justly confided to the eminent character who has preceded me here, whose talents and integrity have been known and revered by me through a long course of years ; have been the foundation of a

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cordial and uninterrupted friendship between us; and I devoutly pray he may be long preserved for the government, the happiness, and prosperity of our common country."

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### NUMBER XIV.

#### INAUGURAL SPEECH.

Delivered March 4. 1801.

Friends and Fellow-Citizens,

**CALLED** upon to undertake the duties of the first executive office of our country, I avail myself of the presence of that portion of my fellow-citizens which is here assembled, to express my grateful thanks for the favour with which they have been pleased to look towards me, to declare a sincere consciousness that the task is above my talents, and that I approach it with those anxious and awful presentiments which the greatness of the charge, and the weakness of my powers so justly inspire. A rising nation, spread over a wide and fruitful land, traversing all the seas with the rich productions of their industry, engaged in commerce with nations who feel power and forget right, advancing rapidly to destinies beyond the reach of mortal eye: when I contemplate these transcendent objects, and see the honour, the happiness, and the hopes of this beloved country committed to the issue and the auspices of this day, I shrink from the contemplation, and humble myself before the magnitude of the undertaking. Utterly indeed should I despair, did not the presence of many whom I here see remind me, that in the other high authorities provided by our constitution I shall find resources of wisdom, of virtue, and of zeal, on which to rely under all difficulties. To you, then, gentlemen who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement, for that guidance and support which may enable us to steer with safety the vessel in which we are all embarked, amidst the conflicting elements of a troubled world.

During the contest of opinion through which we have past, the animation of discussions and of exertions has sometimes worn an aspect, which might impose on strangers unused to think freely, and to speak and to write what they think; but this being now decided by the voice of the nation, enounced according to the rules of the constitution, all will of course arrange themselves under the will of the law, and unite in common

efforts for the common good. All too will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights which equal laws must protect, and to violate which would be oppression. Let us then, fellow-citizens, unite with one heart and with one mind—let us restore to social intercourse that harmony and affection, without which liberty, and even life itself, are but dreary things.—And let us reflect, that having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little if we countenance a political intolerance, as despotic, as wicked, and capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonising spasms of infuriated man, seeking through blood and slaughter his long lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore; that this should be more felt and feared by some, and less by others; and should divide opinions as to measures of safety; but every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all republicans: we are all federalists. If there be any among us who would wish to dissolve this union, or to change its republican form, let them stand distinguished, as monuments of the safety with which error of opinion may be tolerated, where reason is left free to combat it. I know indeed that some honest men fear that a republican government cannot be strong—that this government is not strong enough. But, would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm, on the theoretic and visionary fear, that this government, the world's best hope, may, by possibility, want energy to preserve itself? I trust not. I believe it the only one, where every man, at the call of the law, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said that man cannot be trusted with the government of himself. Can he then be trusted with the government of others? Or have we found angles, in the form of kings to govern him? let history answer this question.

Let us then with courage and with confidence, pursue our own federal and republican principles; our attachment to union and representative government.—Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high minded to endure the degradations of the other; possessing a chosen country, with room enough for our

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descendants to the thousandth and thousandth generation, entertaining a due sense, of our equal right to the use of own faculties, to the acquisitions of our own industry, to honour and confidence from our fellow citizens, resulting not from birth, but from our actions and their sense of them enlightened by a benign religion, professed indeed and practised in various forms, yet all of them inculcating honesty, truth, temperance, gratitude and the love of man ; acknowledging and adoring an overruling providence, which by all its dispensations proves that it delights in the happiness of man here, and his greater happiness hereafter ; with all these blessings, what more is necessary to make us a happy and prosperous people ? Still one thing more, fellow citizens, a wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuit of industry and improvement, and shall not take from the mouth of labour the bread it has earned. This is the sum of good government ; and this is necessary to close the circle of our felicities.

About to enter, fellow-citizens, on the exercise of duties which comprehend every thing dear and valuable to you, it is proper you should understand, what I deem the essential principles of our government, and consequently those which ought to shape its administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political :—peace, commerce and honest friendship with all nations, entangling alliances with none ; the support of the state governments in all their rights, as the most competent administrations for our domestic concerns, and the surest bulwarks against anti-republican tendencies : the preservation of the general government in its whole constitutional vigour, as the sheet anchor of our peace at home, and safety abroad : a jealous care of the right of election by the people, a mild and safe corrective of abuses, which are lepped by the sword of revolution where peaceable remedies are unprovided :—absolute acquiescence in the decisions of the majority, the vital principle of republics, from which is no appeal but to force, the vital principle and immediate parent of despotism :—a well disciplined militia, our best reliance in peace, and for the first moments of war, till regulars may relieve them ; the supremacy of the civil over the military authority ; economy in the public expense that labour may be lightly burthened : the honest payment of our debts, and sacred preservation of the public faith ; encouragement of agriculture, and of commerce, as its handmaid ; the diffusion of information, and assignment of all abuses at the

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bar of public reason ; freedom of the press ; and freedom of person, under the protection of the habeas corpus ; and trial by juries impartially selected. These principles form the bright constellation, which has gone before us, and guided our steps through an age of revolution and reformation. The wisdom of our sages, and blood of our heroes have been devoted to their attainment ; they should be the creed of our political faith ; the text of civic instruction, the touchstone by which to try the services of those we trust ; and should we wander from them in moments of error or alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty and safety.

I repair then fellow citizens, to the post you have assigned me. With experience enough in subordinate offices to have seen the difficulties of this the greatest of all, I have learnt to expect that it will rarely fail to the lot of imperfect man to retire from this station with the reputation, and favour which brings him into it. Without pretensions to that high confidence you reposed in our first and greatest revolutionary character, whose pre-eminent services had entitled him to the first place in his country's love, and destined for him the fairest page in the volume of faithful history, I ask so much confidence only as may give firmness and effect to the legal administration of your affairs. I shall often go wrong through defect of judgment.

When right, I shall often be thought wrong by those whose positions will not command a view of the whole ground. I ask your indulgence for my own errors, which will never be intentional ; and your support against the errors of others, who may condemn what they would not, if seen in all its parts. The approbation implied by your suffrage, is a great consolation to me for the past ; and my future solicitude will be, to retain the good opinion of those who have bestowed it in advance, to conciliate that of others, by doing them all the good in my power, and to be instrumental to the happiness and freedom of all.

Relying then, on the patronage of your good will, I advance with obedience to the work, ready to retire from it whenever you become sensible how much better choices it is in your power to make. And may that infinite Power, which rules the destinies of the universe, lead our councils to what is best, and give them a favourable issue for your peace and prosperity.

THOMAS JEFFERSON.

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### NUMBER XV.

Extract from the "debate on the resolution of Mr. DAVIS, that the tax on stills, refined sugars, stamps, &c. ought to be taken off." From the Washington Federalist of February 16. 1802.

Mr. DAVIS. "IT was in the recollection of the house, that he had yesterday, in consequence of the great delay practised by the committee of ways and means, asked, in the most respectful terms he could use, for information, to which he deemed himself entitled, as a member of this house. When he sought this information and asked, why no report had been made on the subject of repealing internal taxes? when a report would be made? or what that report would probably be? no answer had been given. The chairman of the committee had not deigned to give an answer: no gentleman would break silence. *He was not willing to submit to this silent legislation: there might be some gentlemen who would rise, or vote in favour of a motion, because it came from one of half a dozen members of this house, but he would not do it.* He represented as many freemen as any member of the house: he felt himself entitled to quite as much respect as any other, and he thought it was the duty of the members of the committee to give the information, which it was his right to ask for. *To gentlemen, who were not in the secrets of the cabinet, and who were not closeted before measures were introduced into this house, it was but reasonable to give information, to enable them to understand the subject, or to advise their constituents, what would probably be the proceedings of Congress. As however gentlemen would not condescend to give information that is asked for, and were silent, because they understood a subject and might suppose other gentlemen would vote for measures, because the mover approved them.* he felt disposed to do himself justice, and would therefore offer resolutions to the house, and their vote will determine, whether the internal taxes ought to be repealed, and if they should be agreed to, he would then refer them to the committee of ways and means to bring in a bill.

It was now two months since this session began. The subject of internal taxes is well understood: the opinions of gentlemen are probably ripe. Let us have the decision of the house: it is highly interesting to have it now. The time is near, when distilleries must be used: if the tax on them be taken off, they will be used, if not, many of them will be idle.

Why postpone? Why keep the public mind in agitation, in suspense? If it is intended to repeal, do it now: if not say so. No one knows the opinion of the committee, except possibly



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some few, who are in their secrets. He hoped the house would immediately proceed to a decision.

He had been informed that *the subject was before a certain officer of government, he thought such strange proceeding : he thought the committee themselves were to decide.*"

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### NUMBER XVI.

#### DUMB LEGISLATION ;

Or an easy Method of demonstrating the propriety of withholding information from the Public.

IN the house of representatives, Monday, January 25, 1802, Mr. BAYARD called up the following resolution, which he had some days previously laid upon the table, viz.

" *Resolved*, That the secretary of the treasury be required to lay before this house, an account, in detail, of the expenses incurred in the collection of the internal revenues of the United States ; distinguishing, where the same may be practicable, the expenses attending the collection in each branch of the said revenue, and also, an estimate of the reduction of said expenses which may conveniently be made."

The resolution being read, he rose and observed :

As it is extremely possible, Mr. Speaker, that it is designed, that this resolution shall share the same fate with that which the resolution of the gentleman from New-York experienced this morning, I shall be allowed at least, by publicly stating, to justify to the world the motive which induced me to bring it forward.—[Mr. B. alluded to a resolution offered by Mr. T. Morris, the object of which was, to direct the secretary of the treasury to state to the house the amount of stamp duties collected in each state, distinguishing what part was paid by the commercial cities. When the resolution was taken up, there was a call for the question. Nothing was said against the propriety of it. It being merely a call for information, and considered so much a matter of course to agree to such resolutions, when no opposition was made to them, it was not supposed necessary to say any thing on the propriety and reasonableness of the resolution. Yet, to the astonishment of its friends, when the question was put, there were for it 34, against it 54.]

Mr. BAYARD proceeded to urge the importance of the information called for in the resolution ; insisted that it was of a kind which had never been denied to any member who had requested

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it; and called upon the ministerial gentlemen to shew, if they could, why it should not be granted in this instance.

“Do gentlemen mean,” said he, “to lock up the doors of the executive offices, and deny the information those offices were designed to supply to this house? Are they afraid of the light which may be thrown on this subject? Are they afraid that it will be discovered that it is not the general good which they are pursuing, but local and partial advantages?”

Can information injure us? If the project contemplated is a correct one, will it not be promoted rather than obstructed by the information called for?

For my own part, said Mr. B. I want this information, in order to discover the course which it is my duty to pursue. I do not feel myself committed as to any particular plan.

If it should really be found, that it is better to tax articles of necessary consumption than those of mere luxury; that a tax on carriages is more oppressive than a tax on salt or brown sugar, I should certainly yield to the conviction, however unexpectedly it might assail me.

Sir, said Mr. B. I must rely that the resolution will be agreed to. There is not a precedent in our annals of opposition to such a resolution. If, however, one is now to be introduced, I think it proper, that the names of those gentlemen should hereafter appear by whom it was resisted, and by whom it was established. He therefore hoped the question would be taken by yeas and nays.

Mr. GRISWOLD stated that the expense of collecting the internal taxes was very different upon different articles. He remarked that the secretary, in his report, had declared that the expense of collecting the internal taxes amounted to nearly 20 per cent. on the amount collected. It appeared, however, by the statements to which the secretary alluded, that the charge for collecting one branch of this revenue did not amount to 5 per cent. From this statement he argued the great importance of the information contemplated in the resolution.

The consent of the house said Mr. G. to every call for information, had formerly been so much a matter of course, that he should not have troubled the house with any remarks upon so plain a question as the present, had not the experience of this day proved, that gentlemen were not always to be indulged by the house with the information which they required; and the profound silence which had at this time been observed by those gentlemen who could either admit or reject the resolution, appeared to indicate a determination on their part to refuse the important and necessary information required by the resolution. He did presume, however, that upon this occasion, the house would

consent to the resolution, and more particularly, as the report of the secretary of the treasury, which had been read proved so clearly the necessity of passing it.

No reply whatever was made to these arguments, and to many others which were forcibly urged in favour of the resolution.

Mr. HUGER advocated the resolution.

Mr. RUTLEDGE confessed himself much puzzled by the new forms of proceeding this day adopted. Ever since he had the honour of a seat in congress, it had been invariably the practice, when measures were proposed not agreeable to the majority, for them to offer their objections to them. This had ever been the practice, and the experience of its convenience offered strong reasons for its continuance. When the majority stated their objections to any measure, the minority, in sustaining it, answered them fully : thus both sides acted understandingly, and when the proceedings of the national legislature went out to the people, they were at the same time informed of the reasons under which their representatives had legislated. This had not only been the usage in congress, but the form of proceeding in all representative bodies with whose history we are acquainted.—Even in the British house of commons, which gentlemen had often and emphatically styled a mockery of representation, so great is the respect paid to public opinion, that the majority deem it their duty to assign, in debate, the reasons of their conduct.—Although the minister in England, has quite as much confidence in the strength of his majority, as gentlemen here can have in theirs, yet, in feeling power, he does not forget right, and his regard for public opinion is so great, that he never secures his measures by a silent vote. In these days of innovation, we, it seems, are to pursue a different course. When the resolution offered this morning by my honourable friend from New York, (Mr. MORRIS) was taken into consideration, not a voice was raised against it : this profound silence made us expect an unanimous vote—but (in consequence he supposed, of some out-door arrangements) it was rejected by the silent majority. He had seen many deliberative assemblies, but never before witnessed such a procedure. He would not say whether this was respectful towards the minority, whom we have been told from high authority, have their equal rights ; he would not say whether it was dignified, as it regarded the majority ; but, without pretending to any spirit of prophecy, he would venture to say it could not be deemed politic or wise by the people of this country.

Mr. RUTLEDGE proceeded at considerable length : but the ministerial side of the house remained silent as the grave.

Mr. BAYARD. I thank God, if we have not the advantage of hearing gentlemen on the other side express their opinions, we have still the liberty of expressing our own sentiments. Not knowing how long we may have that liberty, I will now state further my opinion on the subject before the house.—He then proceeded with some further arguments.

Mr. GODDARD said—That he had until this time consoled himself with an idea, that whatever measures might be adopted the present session he and those with whom he acted, would at least, have been permitted to understand the principles, upon which those measures would be supported. This consolation he had derived from a declaration, made at an early period of the session, by an honourable gentleman from Virginia, (Mr. GILES) that economy of information was not what he wished to be practised. But of that solitary consolation, he had this day been bereft. We have already made such advances in the system of economy, as to have arrived at a point, where it is thought necessary to practise *economy of information*. He inferred this from the manner in which the resolutions, which had been called up, had been treated.

Nothing was said in reply to these remarks, but the question being taken by yeas and nays, the resolution was rejected, *fifty-seven to thirty-seven*. The following are the names of those who voted against the resolution.

|            |            |               |               |
|------------|------------|---------------|---------------|
| ABLESTON,  | Fowler,    | Leib,         | S. Smith;     |
| Bacon      | Giles,     | Milledge;     | Sprigg,       |
| Bishop,    | Gray,      | Mitchel,      | Starford,     |
| Brent,     | Gregg,     | Moore,        | Stanton, jr.  |
| Brown,     | Hannah,    | Mott,         | Steward,      |
| Butler,    | D. Heiler, | New,          | Tallmadge,    |
| Chy,       | J. Heiler, | Newton, jr.   | Thomas.       |
| Credit,    | Helm.      | Nicholson.    | Thompson,     |
| Cutts,     | Hoge,      | Randolph jr.  | A. Trigg,     |
| Davis,     | Holland,   | Smilie,       | J. Trigg,     |
| Dixon,     | Holmes,    | Israel Smith, | Van Cortlant, |
| Elmendorf, | Jackson,   | Smith, N. Y.  | Van Ness,     |
| Elmer,     | J. husen,  | Smith, Vir.   | Varnum,       |
| Eadie,     | Jones,     | Josiah Smith, | Van Horn,     |
|            |            |               | R. Williams.  |

Mr. RUTLEDGE called up for consideration the resolution which he moved on Friday, on which the previous question was then taken.

*Resolved*, That the committee of ways and means be instructed *particularly* to inquire into the expediency of reducing the duties on brown sugar, coffee, and bolacca tea."

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Mr. GRISWOLD hoped the resolution would be decided upon.

Mr. RUTLEDGE hoped the reference would obtain. These articles paid the highest rate of duties, and were of the first necessity. In looking over the rates of duties on imports, he saw many articles that were taxed enormously high. Those in the resolution were of the first necessity, the duty high, and laid when they were at war prices; while the people received war prices for their produce, they could with convenience pay for these articles though high. The object of the resolution was merely to enquire, and he did not see how it could interfere with any object gentlemen have in view.

The ministerialists still observed the most profound silence:

Mr. DANA. I beg liberty to tender the homage of my profound respects, for the dignified situation in which gentlemen have now placed themselves, and congratulate them on their silence. There is something peculiarly impressive in this mode of opposing every thing that is urged. It is seldom that gentlemen have exhibited such a remarkable appearance of a philosophical assembly.

*That dumb legislature will immortalize your name*—is said to have been the language of a certain distinguished General to a certain nominal Abbé who has been represented as having pigeon-holes full of constitutions of his own making.

During the memorable night, at St. Cloud, when the French Council of Ancients and Council of Five Hundred were adjourned—to meet no more; it may be recollected, the powers of the executive government were provisionally committed to three persons styled Consuls, and two of them were the General and the Abbé. From each of the councils, twenty-five members were selected to compose a commission, and assist the provisional consuls in preparing a constitution for France. Of the numerous *projets* of constitutions which were presented by the Abbé it is said no part was finally adopted, except the plan of a dumb legislature. This, the General instantly seized with apparent enthusiasm, exclaiming to the Abbé, *that dumb legislature will immortalize your name*. And it was determined to have a *corps législatif* that should vote, but not debate.

It was scarcely to be expected that any thing like this would soon take place in our own country. But it is the prerogative of great geniuses, when in similar circumstances, to arrive at the same great results, although with some difference in the process. Nor can I forbear offering my tribute of admiration for the genius who has projected a mode of proceeding, among us that so nearly rivals the plan adopted in France. I know not to whom is due the honour of this luminous discovery. After ascribing to him however all merited glory, permit me to examine the

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force of the argument relied on by gentlemen in opposition to the proposed resolution.

Their argument is silence. I hope to be excused, if I should not discuss the subject in the most satisfactory manner; as silence is a new species of logic, about which no directions have been found in any treatise on logic that I have ever seen, it will be my endeavour to reply to gentlemen by examining some points which may be considered as involved in their dumb argument.

One of these points is—that certain members of this house have pledged themselves to their constituents for repealing all the internal taxes. They may have declared their opinions to this effect, before their election; and being chosen under such circumstances, may now deem themselves bound in honour not to vary. The terms assented to between their constituents and themselves may therefore be viewed, by them as the particular rule for their own conduct. But is this house to be regarded in the same light with the English house of commons during the early period of their history, when the knights of shires and the representatives from cities and boroughs were instructed on what terms they should bargain with the Crown for special privileges and were limited to the price agreed on by their constituents? The situation of gentlemen, who have thus pledged themselves to vote for repealing the internal taxes, must be irksome indeed, if on mature consideration they should believe it more proper and more beneficial for the country to have other taxes reduced.—Those who have entered into a stipulation of this sort, so as to feel it as a point of honour, are so peculiarly circumstanced that they might think it too assuming in me, were I so much as to express a desire that they would vote for reducing some of the duties on imports, instead of repealing all the internal taxes. It is to be hoped, the number of members, who have pledged themselves in this manner, does not exceed twenty five or thirty.

Another point involved in this argument of silence is, that other gentlemen may have pledged themselves to these, and given them a promise of support on this subject. It must be acknowledged that this is more than was required on account of their seats in this house. If any gentlemen have absolutely so pledged themselves to others who had before pledged themselves to their constituents, it must be indeed difficult to convince them. On this point their minds must be constituted so differently from mine, that there does not seem to be any common principle between us, that can be assumed as the basis of argument.

Another point is, the executive has recommended a repeal of all the internal taxes, and not any reduction of the impost. And will gentlemen act upon this as a sufficient reason for their con-

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duet? Is it now to become a principle that the executive is to deliberate, and the legislature to act, and that no measure is to be adopted unless proposed by the executive? Would it not be better for the country to abolish this use, and so avoid useless expence, if it is to be nothing more than one of the ancient parliaments of France, employed to register the edicts of a master?

The silence of gentlemen may also be considered as having relation to their great desire for the harmony of social intercourse. To prevent its being disturbed in the house by debating, they may have come to a determination, that all the great questions shall be settled by gentlemen of a certain description, when met in a secreted conclave, and be only voted upon in this place. If such be the fact, it seems but reasonable, that any of the members of this house should be admitted, in meetings of the conclave, as delegates from the territorial districts are admitted in congress, with a right to debate although not to vote. If, however, this is thought too much, gentlemen should at least have galleries provided, so that other members of the legislature might be admitted as spectators, and have some opportunity of knowing the reasons for public measures.

The question was called for and lost, yeas 35, nays 58.

END.

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